
2025 C L C 621

[Lahore]

Before Asjad Javaid Ghural, J

MANZAR ABBAS ---Appellant

versus

Mian MUHAMMAD AZAM and 2 others ---Respondents

Election Appeal No. 630 of 2024, decided on 9th January, 2024.

(a) Elections Act (XXXIII of 2017)---

*---Ss. 60 & 63---Nomination papers of candidate, acceptance of---
Scope---Appellant challenged order passed by the Returning Officer,*

CLC

whereby he, by over-ruling the objections of the appellant, accepted the nomination papers of respondent---Objection of the Appellant was that the respondent was defaulter of Irrigation Department---Validity---Demand of the Irrigation Department had already been challenged before the High Court by way of filing constitutional petition, as such the demand was still not finalized, therefore, on such basis respondent could not be precluded from contesting the elections---Appeal, being merit-less, was dismissed. [pp. 624, 625] A & E

(b) Elections Act (XXXIII of 2017)---

---Ss. 60 & 63---Nomination papers of candidate, acceptance of---Scope---Appellant challenged order passed by the Returning Officer, whereby he, by over-ruling the objections of the appellant, accepted the nomination papers of respondent---Objection of the Appellant was that there were clear discrepancies in the income and expenses of the respondent---Validity---Appellant had failed to bring on record anything in black and white in support of his objection/submission---Even otherwise, question as to whether the declaration/statement of the candidate in the nomination paper was false or incorrect in any material particular, could not be ascertained without carrying out factual probe, which exercise could not be undertaken by the Returning Officer or the Appellate Tribunal in summary proceedings---Appeal, being merit-less, was dismissed. [pp. 624, 625] B & E

Rai Hassan Nawaz v. The Election Commission of Pakistan and others 2013 CLC 1101 ref.

(c) Elections Act (XXXIII of 2017)---

---Ss. 60 & 63---Nomination papers of candidate, acceptance of---Scope---Appellant challenged order passed by the Returning Officer, whereby he, by over-ruling the objections of the appellant, accepted the nomination papers of respondent---Objection of the appellant was that the respondent concealed registration of a criminal case (FIR) against him---Validity---There was nothing on record from which it could be inferred that the respondent was associated in the said case either at the stage of inquiry or investigation, therefore, it could not be construed that the respondent knowingly furnished false information in said regard---There appeared no other reason to conceal the case, as even disclosure of the FIR would not amount to his disqualification---Non-disclosure of pending case(s) cannot be equated with non-disclosure of a criminal case in which a person has been convicted and one which may entail his disqualification---Appeal, being merit-less, was dismissed. [pp. 624, 625] C & E

Sheikh Muhammad Akram v. Abdul Ghafoor and 19 others 2010
SCMR 733 ref.

(d) Elections Act (XXXIII of 2017)---

**---Ss. 60 & 63---Nomination papers of candidate, acceptance of---
Scope---Appellant challenged order passed by the Returning Officer,
whereby he, by over-ruling the objections of the appellant, accepted the
nomination papers of respondent---Objection of the Appellant was that
the respondent had furnished forged and fictitious report of Tehsildar
qua clearance of any dues---Held, that said objection was not taken by
the appellant before the Returning Officer, therefore, the same could
not be allowed to be agitated at present stage---Appeal, being merit-
less, was dismissed---Appeal, being merit-less, was dismissed.
[p. 625] D & E**

**Usman Nasir Awan, Ahmar Wasim Malik and Faizan Ahmad for
Appellant.**

Muhammad Jawad Zafar for Respondent No. 1.

Khizar Razaq, Returning Officer, PP-131.

ORDER

ASJAD JAVAID GHURAL, J.---Through this appeal under Section 63 of the Elections Act, 2017 read with Rule 54 of the Election Rules, 2017, appellant Manzar Abbas has called in question validity of order dated 29.12.2023 passed by the Returning Officer PP-131, Jhang-VII, whereby he by over-ruling the objection's of the appellant accepted the nomination papers of respondent No.1 (hereinafter shall be referred to as respondent) from the aforesaid constituency.

2. Learned counsel for the appellant submits that respondent was nominated accused in case FIR No. 18 of 2023 dated 18.05.2023 but he has concealed the same in his affidavit; that the respondent is defaulter of irrigation dues amounting to Rs.3,09,50,000/-; that there was clear discrepancy between declared income of the appellant and his known expenses; that the Returning Officer did not pay any heed to the said objections and accepted the nomination papers of the respondent through a non-speaking order.

3. Conversely, learned counsel for the respondent submits that there was no demand assessed by the Irrigation Department till the year 2023; that the respondent was ticket holder of Pakistan *Tehreek-e-Insaf* in the elections pronounced for Provincial Assembly in the year 2023, pursuant to the orders of the Apex Court; that in order to restrain the petitioner to contest the said elections, Care Taker Government of the

Punjab at the instance of the then Federal Government maneuvered to raise demand of *Tawan*, which fact is evident from the letter dated 19.04.2023 issued by the Deputy Commissioner/ District Collector Jhang, showing that till the said date no demand was raised against illegal occupants; that no *Tawan* could be imposed upon the appellant, as he was not occupying any State land rather he possessed the land transferred to him by his forefathers; that even otherwise the respondent has challenged said demand before this Court by way of filing Writ Petition No. 27799 of 2023, which is pending adjudication, as such the demand is still not finalized, therefore, on that basis the appellant cannot be barred to contest the elections; that registration of criminal case bearing FIR No.18 of 2023 dated 18.05.2023 was not in his knowledge, as such he could not disclose the same in the affidavit; that the Returning Officer feeling satisfied with the explanation offered by the respondent rightly accepted his nomination papers and no exception can be drawn therefrom.

4. Heard. So far as the objection that the respondent is defaulter of Irrigation Department is concerned, suffice it to say, as per learned counsel for the respondent, the demand of the Irrigation Department has already been challenged before this Court by way of filing Writ Petition No. 27799 of 2023, as such the demand is still not finalized, therefore, on that basis respondent cannot be precluded from contesting the elections.

5. As far as the objection that there are clear discrepancies in the income and expenses of the respondent is concerned, suffice it to say that in this regard the appellant has failed to bring on record anything in black and white in support of his submission. Even otherwise, it is well settled by now that question as to whether the declaration/statement of the candidate in the nomination paper is false or incorrect in any material particular, cannot be ascertained without carrying out factual probe, which exercise cannot be undertaken by the Returning Officer or the Appellate Tribunal in summary proceedings. Reliance in this regard is placed on Full Bench judgment of this Court reported as "Rai Hassan Nawaz v. The Election Commission of Pakistan and others (2013 CLC 1101)".

6. Next objection of the appellant was that the respondent concealed registration of criminal case bearing FIR No. 18 of 2023 dated 18.05.2023 against him. There is nothing on record from which it could be inferred that the respondent was associated in the said case either at the stage of inquiry or investigation, therefore, it cannot be construed that the respondent knowingly furnished false information in this regard. The explanation offered by the respondent in this regard seems plausible. There appears no other reason to conceal the case, as even disclosure of

CLC

the FIR would not amount to his disqualification. Moreso, it is settled principle of law that non-disclosure of pending case/s cannot be equated with non-disclosure of a criminal case in which a person has been convicted and one which may entail his disqualification. Reliance is placed on case titled 'Sheikh Muhammad Akram v. Abdul Ghafoor and 19 others' (2010 SCMR 733). C

7. Although learned counsel for the appellant argued that the respondent has furnished forged and fictitious report of Tehsildar qua clearance of any dues but such objection was not taken by him before the Returning Officer, therefore, the same cannot be allowed to be agitated at this stage. D

8. Resultantly, instant appeal being devoid of any force stands dismissed. E

MQ/M-32/L

Appeal dismissed.

2025 C L C 625

[Sindh]

Before Agha Faisal, J

BASHAM BALOCH and 5 others ---Plaintiffs

versus

PROVINCE OF SINDH through
Chief Secretary and others ---Defendants

Suit No. 244 of 2023, decided on 27th February, 2024.

Specific Relief Act (I of 1877)---

---Ss. 42, 54 & 56(k)---Civil Procedure Code (V of 1908), Ss. 10, 11 & O.VII, R.11---Suit for declaration and injunction---Rejecting of plaint---Res judicata, principle of---Applicability---Absence of personal interest---Plaintiffs claimed to be entitled to issuance of 99 years lease regarding suit land as they were permanent tenants---Defendants/Authorities sought rejection of plaint on the plea that multiple suits had been filed by plaintiffs against same defendants regarding same land---Plea raised by plaintiffs was that though there was no cavil to the consistency of parties, land etc. across the successive suits but each suit was actuated on a successive claim in respect of the same property---Validity---Multiple litigation under Ss. 10 and 11, C.P.C. is disapproved and O. II, R. 2, C.P.C. requires inter alia consolidation of successive claims