

2026 C L C 152

[Lahore]

Before Asjad Javaid Ghural, J

MUHAMMAD MOAVIA ---Appellant

versus

RETURNING OFFICER NA-109,  
JHANG-II and others ---Respondents

Election Appeal No. 836 of 2024, decided on 9th January, 2024.

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

**---Ss.60(2)(b) & 63---Rejection of nomination papers---Inclusion of candidate's name in 4th Sched. of Anti-Terrorism Act, 1997---Effect---Subsequent freezing of moveable or immovable property---Opening of a dedicated account for election expenses---Requirement---Frozen bank account under 4th Sched.---Consequences---Mandatory election expense account inoperative---Effect on candidature---Inability to operate dedicated account constitutes a bar to candidature---Concealment of a criminal case in affidavit---Brief facts were that the appellant filed an appeal under S. 63 of the Elections Act, 2017 challenging the Returning Officer's order rejecting his nomination papers on grounds of concealment of facts---The record showed that an FIR existed against him; that he obtained pre-arrest bail after learning of the case; that his name was placed in the 4th Schedule of the Anti-Terrorism Act, 1997 and his CNIC and bank accounts were consequently frozen; that under S. 60(2)(b) of the Elections Act, maintaining an active bank account for election expenses was mandatory, but due to the freezing order the appellant could not operate his account; and that he had also been declared a proclaimed offender in criminal proceedings which he did not disclose in his nomination papers---Pivotal question requiring determination in the present election appeal was as to "whether the Returning Officer rightly rejected the appellant's nomination papers on the basis of concealment of material facts, specifically the pending criminal cases; his status as a proclaimed offender; and his inclusion in the 4th Schedule which resulted in frozen bank accounts, and whether these circumstances legally disqualified him from contesting the election due to failure to meet mandatory requirements under the Elections Act, 2017"---Held: Appellant's name had been included in the list of 4th Schedule of the Anti-Terrorism Act, 1997, firstly, in the year 2018, secondly in 2021 when it was excluded, however, keeping in view appellant's activities his name had again been included in the said list**

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in 2023---Consequently, according to the order passed against the appellant, movables or any other property owned or controlled wholly or partly, directly or indirectly stood frozen---According to S. 60(2)(b) of the Elections Act, 2017, opening of a dedicated account for the purpose of election expenses was essential for every candidate---Since, during the existence of aforesaid order, appellant's account remained frozen and he was unable to utilize the same for the purpose of election expenses, therefore, this fact alone was sufficient to preclude him from contesting the forthcoming elections---Moreover, a criminal case was pending against the appellant in which he was a proclaimed offender and same was not disclosed by him in his affidavit---Furthermore, it was revealed that appellant was also a proclaimed offender in another criminal case for the last many years in which admittedly the appellant had not surrendered before the court of law---Appellant had also concealed that case in his affidavit which amounted to concealment of facts, rendering the appellant ineligible to contest the elections---Impugned order passed by the returning officer being within four corners of law needed to intervention in appeal before the High Court---Present appeal was dismissed, in circumstances. [pp. 154, 155] A, B & C

Muzafar Abbas v. Maulana Muhammad Ahmad Ludhianvi and 31 others PLD 2017 Lah. 394 ref.

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

---Ss.60(2) & 62---Rejection of nomination papers---Candidate declared proclaimed offender---Candidate claiming ignorance of registration of a criminal case---Relevance---Subsequent securing of pre-arrest bail after objections of the objectors, plea of---Legality---Effect on candidature---In case the candidate has been declared proclaimed offender after adopting proper procedure of law, he cannot claim he is not aware of any case pending against him---Moreover, securing pre-arrest bail in a case after objections of the objectors does not change his status of proclaimed offender. [p. 155] B

Hussain Bux and another v. District and Sessions Judge/District Returning Officer and Appellate Authority, Sanghar and others 2002 CLC 281 ref.

Allah Bakhsh Laghari for Appellant.

**Usman Nasir Awan for Respondent No. 3.**

Muhammad Abu Bakar, Returning Officer NA-109, Jhang-II and Muhammad Hssain, S.I. for Respondents.

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## ORDER

ASJAD JAVAID GHURAL, J.---Through this appeal under Section 63 of the Election Act, 2017, appellant Muhammad Moavia has called in question validity of order dated 30.12.2023 passed by the Returning Officer NA-109, Jhang-II whereby his nomination papers were rejected on the basis of concealment of facts.

2. Learned counsel for the appellant submits that the Returning Officer committed material illegality and irregularity while rejecting the nomination papers of the appellant; that registration of criminal cases bearing FIR No. 302/14 was not in his knowledge, however, on coming to know about this case, appellant has availed pre-arrest bail which is effective; that the amount mentioned in the Tax Returns for the year 2023 has been utilized prior to submission of the nomination form; that the explanation so offered by the appellant was sufficient to accept his nomination papers.

3. On the converse, learned counsel for respondent No.3 submits that appellant's name has been listed in 4th Schedule of Anti-Terrorism Act, 1997 *vide* order dated 26.12.2023; that CNIC and account of such a person has been blocked under the law; that active account is mandatory requirement for a candidate, which could not be fulfilled by the appellant; that the appellant was proclaimed offender in two criminal cases but he intentionally avoided to disclose the same in the nomination papers; that availing of anticipatory bail in one of said cases after objections of the respondent does not bring the appellant out of the definition of proclaimed offender.

4. Heard. It is a matter of record that appellant's name had been included in the list of 4th Schedule of the Anti-Terrorism Act, 1997 by the Government of the Punjab, Home Department *firstly*, in the year 2018, *secondly* 2021 which was excluded on 24.07.2023, however, keeping in view appellant's activities his name has again been included in the said list *vide* order dated 26.12.2023. According to the said order money or any other property owned or controlled wholly or partly, directly or indirectly shall stand frozen. According to Section 60(2)(b) of the Elections Act, 2017, opening of a dedicated account for the purpose of election expenses is essential for every candidate. Since, during the existence of aforesaid order, appellant's account remained frozen and he is unable to utilize the same for the purpose of election expenses, therefore, this fact alone is sufficient to preclude him from contending the forthcoming elections.

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5. Moreover, admittedly, the appellant is proclaimed offender in case FIR No.302/14 since 29.09.2015 and challan against him under section 512, Cr.P.C. was submitted in the Trial Court on 15.12.2015 but this case was not disclosed by him in his affidavit. Although the appellant claimed ignorance of registration of any such case against him and also secured pre-arrest bail in the aforesaid case but the explanation qua non-awareness of said case does not appeal to reasons. Appellant was declared proclaimed offender after adopting proper procedure of law, as such he cannot claim that he was not aware of said case. Further, he is fugitive from law in the aforesaid criminal case for the last more than eight years, therefore, securing him pre-arrest bail in the said case, after objections of the objectors does not change his status of proclaimed offender. Reliance is placed on case reported as "Hussain Bux and another v. District and Sessions Judge/District Returning Officer and Appellate Authority, Sanghar and others (2002 CLC 281)" wherein it has been laid down as under;-

"The proclamation was issued under section 87, Cr.P.C. by the Trial Court which was followed by the order of the attachment of property under section 88, Cr.P.C. However, after the nomination forms were rejected on this ground, the petitioner approached this Court and obtained protective bail. The conduct and behavior that the petitioner No.1 demonstrates that petitioner No.1 has thwarted the process of the Court and is fugitive from law. Merely because the petitioner No.1 had sought protective bail, therefore it cannot be said that the absconsion order and proclamation orders have been undone by the grant of protective bail which was granted for a limited period."

6. Furthermore, Police Officer, in attendance, further disclosed that the appellant is also proclaimed offender in case FIR No.222/11 dated 08.04.2011 for the last many years and in this case admittedly the appellant has not surrendered before the Court of law. Appellant has also concealed this case in his affidavit which amounts to concealment of facts, rendering the appellant ineligible to contest the elections. Reliance is placed on case reported as "Muzafar Abbas v. Maulana Muhammad Ahmad Ludhianvi and 31 others (PLD 2017 Lahore 394)".

7. Impugned order of the Returning Officer being within the four corners of law needs no intervention in appeal and the same stands dismissed.

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Appeal dismissed.

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