

ELECTION COMMISSION OF PAKISTAN

MR. SIKANDAR SULTAN RAJA,	CHAIRMAN
MR. NISAR AHMED DURRANI,	MEMBER
MR. SHAH MUHAMMAD JATOI,	MEMBER
MR. BABAR HASSAN BHARWANA,	MEMBER
JUSTICE (R) IKRAMULLAH KHAN,	MEMBER

Case No. 21(1)/2025-Elec-I

&

Case No. 6(42)/2025-Law-III

Subject: NOTICE UNDER ARTICLE 218(3) OF THE CONSTITUTION READ WITH SECTION 4, 8(C), 15, 170, 175, 180 AND 234 OF THE ELECTIONS ACT, 2017 AND VIOLATION OF CODE OF CONDUCT ISSUED BY THE COMMISSISON FOR CONDUCT OF BYE ELECTION IN NA-18 HARIPUR.

CLUBBED WITH
COMPLAINT UNDER ARTICLE 218(3) OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973 READ WITH SECTION 4, 8, 15, 233 AND 234 OF THE ELECTIONS ACT, 2017 FILED BY MR. BABAR NAWAZ KHAN, CONTESTING CANDIDATE OF BYE-ELECTION IN CONSTITUENCY NA-18 HARIPUR, TEHSIL HAVELLIAN.

On Commission's Notice

- i. Mr. Muhammad Sohail Khan Afridi, Chief Minister of KP (Respondent No. 1).
- ii. Mst. Shehar Naz Omar Ayub Khan, Contesting Candidate NA-18 Haripur (Respondent No. 2).

In Complaint:

Mr. Babar Nawaz Khan, Contesting Candidate NA-18 Haripur (Complainant).
 Vs.

1. Mr. Sohail Khan Afridi (CM KP),
2. Mst. Shehar Naz Omar Ayub Khan, Contesting Candidate NA-18 Haripur.

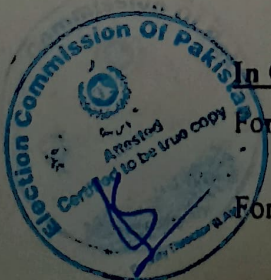
.....Respondent(s)

Attendance on Commission's Notice:

For the Respondent No. 1	:	Syed Mohammad Ali Bokhari, ASC along with Tanvir Hussain, Zakria Arif, Hassan Sajjad and Murtaza Hussain Turi.
For the Respondent No. 2	:	Nemo.
For the ECP	:	Secretary ECP, Special Secretary, Special Secretary (Law), ADG (Elections), ADG (Law), Director (Law), DD (Law) & DD (MCO).

In Complaint's Case:

For the Complainant	:	Barrister Sajeel Sheryar Swati, ASC, along with Zia-ur-Rehman, Advocate.
For the Respondent No. 1	:	Syed Mohammad Ali Bokhari, ASC along with Tanvir Hussain, Zakria Arif, Hassan Sajjad and Murtaza Hussain Turi.



For the Respondent No. 2 : Nemo.

Date of hearing : 25-11-2025

ORDER

Sikandar Sultan Raja, Chairman- Today the matter was fixed for submission of power of attorney by counsel alongwith written statements/replies of the notices issued by the Commission dated 2-11-2025. Mr. Syed Ali Bukhari, ASC appeared on behalf of respondent No.1 Mr. Muhammad Sohail Khan Afridi, Chief Minister Khyber Pakhtunkhwa and submitted power of attorneys in both cases which are taken on record. On the other hand no one is in attendance on behalf of respondent No.2 on the last date of hearing. Initially Mr. Ali Bokhari ASC verbally informed that he will represent both, however, he has submitted power of attorney on behalf of Respondent No. 1 (CM-KP) despite submission of memo of appearance on the last date of hearing. Respondent No.1 Mr. Muhammad Sohail Khan Afridi, Chief Minister Khyber Pakhtunkhwa is also in attendance before the Commission

02. At the very outset the counsel for the respondent No.1 submitted that due to blast in Peshawar Khyber Pakhtunkhwa on 24-11-2025, Chief Minister Khyber Pakhtunkhwa was busy therefore the reply could not be submitted before the Commission today. However, he raised two objections while referring Article 218(3), 13 of the Constitution and Section 234(3) of the Elections Act, 2017. His first objection was that the same matter regarding violation of clause 18 of the code of conduct is pending adjudication before the District Monitoring Officer (DMO) Haripur and next date of hearing for appearance is 28-11-2025. He further argued that the principle of double jeopardy is provided under Article 13 of the Constitution. His second objection was that in both the notices issued by DMO and the Commission, it is mentioned that the jurisdiction of public gathering was Havelian Abbotabad and not Haripur. Therefore, he requested the Commission that the maintainability of the matter should be decided first

03. Representatives of the Commission including Secretary ECP, Special Secretary and Special Secretary (Law) briefly submitted the facts of the case and stated that the proceedings pending before the Commission are independent in nature and are different from the proceedings pending before the DMO.

04. Mr. Sajeel Sheryar Swati, ASC, counsel for the complainant appeared and argued that Article 218(3) of the Constitution is itself a complete code which provides functions, powers and duties of the Commission. He also referred to Article 222 of the Constitution and stated that importance of ECP is evident from the provisions of this Article which provides Parliament may make laws but no such law shall have the effect of taking away or abridging any of the powers of the Commissioner or an Election Commission under this part. He further stated

that ECP has two types of jurisdiction one in respect of civil wrongs and other in respect of cases of criminal nature. He further argued that for the implementation of code of conduct by the Commission there are two types of the consequences of civil and criminal nature. He further stated that in terms of Section 15 of the Elections Act, 2017 the Commission can take cognizance in the matter relating to implementation of code of conduct by on its own motion. He referred the judgments of Shah Muhammad's case, Waheeda Shah's case and case of Hali Pota. In view of the above discussion he stated that Commission has jurisdiction to entertain the matter.

05. Arguments heard and record perused.

06. From the perusal of record it is revealed that on the previous date of hearing matter was adjourned while accepting the request for the counsels for the respondents for submission of power of attorney and written replies. However, despite it replies are not submitted even no one is in attendance on behalf of Respondent No.2. We have also gone through the objections raised by the counsel for respondent No.1 regarding maintainability of the matter. The respondents could be at liberty to raise all the legal objections in their written replies and the same will be decided accordingly at appropriate stage. Section 15 of the Elections Act, 2017 is an independent Section which provides vast powers to the Commission to act in the subject matter. Furthermore, the objection of jurisdiction shall be dealt in accordance with law but prima facie Clause 18 of the Code of Conduct is not restricted to the extent of violation of Law and Rules in a particular constituency.

07. As the Chief Minister Khyber Pakhtunkhwa is in attendance today, he is exempted from personal appearance in future. However, respondents are directed to file their written replies on or before the next date of hearing. Office is also directed to repeat notice to respondent No.2 for appearance and reply. The matter is adjourned to 04-12-2025 at 10:00 AM for further proceedings. In the meanwhile it is decided that the proceedings before the DMO shall be held in abeyance.

-Sd-

(Sikandar Sultan Raja)
Chairman

-Sd-

(Nisar Ahmed Durrani)
Member

-Sd-

(Shah Muhammad Jatoi)
Member

-Sd-

(Babar Hassan Bharwana)
Member

-Sd-

(Justice (R) Ikram Ullah Khan)
Member

