

ELECTION COMMISSION OF PAKISTAN

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

Case No. F. 4(204)/2025-Law-II
Clubbed with
Case No. F. 6(7)/2024-Coord (P/F)
Case No. F. 6(7)/2024-Coord (Vol-III)
Case No. F. 6(30)/2025-Law-III

Subject: WRIT PETITION NO. 4423-P/2025 TITLED AS PML (N) VS. ELECTION COMMISSION OF PAKISTAN AND OTHERS FOR ALLOCATION OF RESERVED SEATS

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REPRESENTATION UNDER ARTICLE 106 OF THE CONSTITUTION AND SECTION 104 OF THE ELECTIONS ACT, 2017 FOR REALLOCATION OF RESERVED SEATS FOR WOMEN AND NON MUSLIM IN THE PROVINCE OF KPK FILED BY ANP THROUGH SHAHIDA WAHEED AND AMARJEET.

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REPRESENTATION FOR GRANT OF RESERVED SEATS FOR MONORITIES TO AWAMI NATIONAL PARTY (ANP)

&

APPLICATION / PETITION FOR AND ON BEHALF OF PTI (P) FOR ALLOCATION OF RESERVED SEATS FOR WOMEN AND NON-MUSLIMS IN THE PROVINCIAL ASSEMBLY OF KPK.

On Commission's Notice:

<u>Respondent No.</u>	<u>Political Party's Name</u>	<u>Counsel For The Political Party</u>
<u>1.</u>	<u>PML(N)</u>	Mr. Amir Javed, ASC
<u>2.</u>	<u>Jamiat Ulma-e-Islam Pakistan</u>	Kamran Murtaza, ASC
<u>3.</u>	<u>Pakistan People's Party (P)</u>	Nayyar Bokhari, ASC
<u>4.</u>	<u>Awami National Party</u>	Mr. Babar Khan Yousafzai, ASC
<u>5.</u>	<u>Pakistan Tehreek-e-Insaf (P)</u>	Mr. Sultan Muhammad Khan, AHC Along with Mr. Tufail Shehzad & Sabir Ahmed, AHC

<u>Respondent No.</u>	<u>Candidate Name</u>	<u>Party Name</u>	<u>In person</u>	<u>Counsel.</u>
<u>6.</u>	<u>Ms. Afshan Hussain</u>	<u>PML(N)</u>	Nemo	
<u>7.</u>	<u>Ms. Amina Sardar</u>		Nemo	
<u>8.</u>	<u>Ms. Faiza Malik</u>		Nemo	
<u>9.</u>	<u>Ms. Jamila Paracha</u>		Nemo	
<u>10.</u>	<u>Ms. Shazia Jadoon</u>		Nemo	
<u>11.</u>	<u>Ms. Shehla Bano</u>		Nemo	



<u>Respondent No.</u>	<u>Candidate Name</u>	<u>Party Name</u>	<u>In person</u>	<u>Counsel.</u>
<u>12.</u>	Ms .Sobia Shahid	<u>PML(N)</u>	In-person	Mr. Amir Javed, ASC
<u>13.</u>	Ms. Begum Shahab		Nemo	
<u>14.</u>	Ms. Saeeda Jamshed		Nemo	
<u>15.</u>	Ms. Syeda Sonia Hussain		In-person	
<u>16.</u>	Ms. Farah Khan		In-person	
<u>17.</u>	Mr. Suresh Kumar		In-person	
<u>18.</u>	Ms. Saima Ijaz		Nemo	
<u>19.</u>	Mr. Imran Pervaiz		Nemo	
<u>20.</u>	Mr. Gursaran Lal		In-person	

<u>Respondent No.</u>	<u>Candidate Name</u>	<u>Party Name</u>	<u>In person or through counsel.</u>
<u>21.</u>	Ms. Aiman Jalil Jan	<u>JUI(P)</u>	No one appeared in-person, however, Represented through Mr. Kamran Murtaza, ASC
<u>22.</u>	Ms. Arifa Bibi		
<u>23.</u>	Ms. Asima Alam		
<u>24.</u>	Ms. Belqees		
<u>25.</u>	Ms. Bibi Aqeela Urooj		
<u>26.</u>	Ms. Madina Gul Afridi		
<u>27.</u>	Ms. Naheeda Noor		
<u>28.</u>	Ms. Neelofar Begum		
<u>29.</u>	Ms. Rabia Shaheen		
<u>30.</u>	Ms. Rehana Ismail		
<u>31.</u>	Ms. Rukhsana Raz		
<u>32.</u>	Ms. Sara Khan		
<u>33.</u>	Ms. Shazia Tariq		
<u>34.</u>	Ms. Sitara Afreen		
<u>35.</u>	Ms. Yasmin Khalid Khan		
<u>36.</u>	Mr. Ranjeet Singh		
<u>37.</u>	Mr. Askar Pervaiz		
<u>38.</u>	Mr. Fareed Chand		
<u>39.</u>	Mr. Gagan Deep Singh		
<u>40.</u>	Mr. Gurpaal Singh		
<u>41.</u>	Mr. Mubasshar Naz		

<u>Respondent No.</u>	<u>Candidate Name</u>	<u>Party Name</u>	<u>In person</u>	<u>Counsel.</u>
<u>42.</u>	Ms. Anila Shehzad	<u>PPP (P)</u>	Nemo	Nayyar Bokhari, ASC
<u>43.</u>	Ms. Ashbar Jan Jadoon		In-person	
<u>44.</u>	Ms. Asma Tariq		Nemo	
<u>45.</u>	Ms. Farzana Shereen		In-person	
<u>46.</u>	Ms. Ghazala Atta		Nemo	
<u>47.</u>	Ms. Mehr Sultana		In-person	
<u>48.</u>	Ms. Nelofar Babar		In-person	
<u>49.</u>	Ms. Sajida Tabassum		In-person	
<u>50.</u>	Ms. Sawera Parkash		Nemo	
<u>51.</u>	Ms. Shazia Tehmas Khan		In-person	



<u>Respondent No.</u>	<u>Candidate Name</u>	<u>Party Name</u>	<u>In person</u>	<u>Counsel.</u>
<u>52.</u>	Mr. Babar	PPP (P)	Nemo	
<u>53.</u>	Mr. Biyari Lal		In-person	
<u>54.</u>	Mr. Kishwar Kumar		Nemo	
<u>55.</u>	Mr. Yousaf George		<u>In-person</u>	

<u>Respondent No.</u>	<u>Candidate Name</u>	<u>Party Name</u>	<u>In person or through counsel.</u>
<u>56.</u>	Ms. Almas Jahan	ANP	Nemo
<u>57.</u>	Ms. Bibi Shehnaz Raja		Nemo
<u>58.</u>	Ms. Hina Mehwish Khan		Nemo
<u>59.</u>	Ms. Kashmala Amir		Nemo
<u>60.</u>	Ms. Khadija Bibi		In-person
<u>61.</u>	Ms. Nagina Jan		Nemo
<u>62.</u>	Ms. Sana Gulzar		Nemo
<u>63.</u>	Ms. Shaheen Zamir		Nemo
<u>64.</u>	Ms. Shahida Waheed		In-person
<u>65.</u>	Ashok Kumar Kapoor		Nemo
<u>66.</u>	Mr. Amarjeet		In-person

<u>Respondent No.</u>	<u>Candidate Name</u>	<u>Party Name</u>	<u>In person</u>	<u>Counsel.</u>
<u>67.</u>	Ms. Anita Mahsud	PTI (P)	In-person	All the candidates were also represented through counsels namely Mr. Sultan Muhammad Khan, AHC Along with Mr. Tufail Shehzad & Sabir Ahmed, AHC
<u>68.</u>	Dr. Asia Asad		In-person	
<u>69.</u>	Ms. Nadia Sher		Nemo	
<u>70.</u>	Ms. Naima Aslam		In-person	
<u>71.</u>	Ms. Safeena Bibi		In-person	
<u>72.</u>	Ms. Sobia Rehman		Nemo	
<u>73.</u>	Ms. Somi		In-person	
<u>74.</u>	Ms. Yasmeen Farhad		Nemo	
<u>75.</u>	Mr. Aresh Kumar		Nemo	
<u>76.</u>	Mr. Dilraaj Gill		In-person	

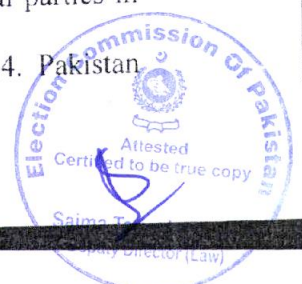
.....Respondent(s)

For the Election Commission : Secretary (ECP), Special Secretary,
Special Secretary (Law), DG-Pol. Finance,
ADG (Law), Director (Law),
Dy. Director (Law), Dy. Director (Coordination).

Date of hearing : 14-07-2025

ORDER

Sikandar Sultan Raja, Chairman- The subject matter pertains to the calculation of quota and allocation of reserved seats for women and non-Muslims to the political parties in Khyber-Pakhtunkhwa Provincial Assembly in the wake of General Elections, 2024. Pakistan

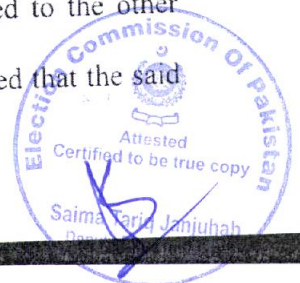


Muslim League (N) through its President KPK chapter invoked the Constitutional jurisdiction of Peshawar High Court under Article 199 of the Constitution through writ petition No. 4423-P/2025, seeking recalculation of quota and allocation of reserved seats for women and non-Muslims on the basis of their seven general seats instead of six. The Peshawar High Court, Peshawar, after hearing the parties before it, decided the matter through a short order dated 08-07-2025 and referred the matter to the Commission for hearing and decision of the case after providing opportunity of hearing to the political parties or their representatives and contesting candidates. The Peshawar High Court has also directed that till the decision of the Election Commission of Pakistan, the oath shall not be administered to Respondent No. 4 & 5 namely Ms. Naheeda Noor & Mst. Afrifa Bibi mentioned in the above said writ petition.

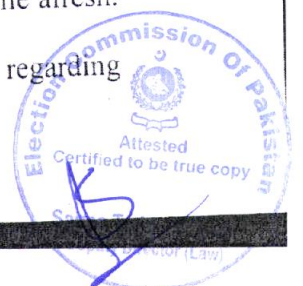
02. Upon receipt of the order dated 08.07.2025 through O/o PEC-KP, the matter was discussed in the meeting of the Commission and it was decided to fix it for hearing on 14.07.2025 with notices to all the concerned political parties and contesting candidates.

03. The Commission has also received two applications from Awami National Party ANP and one application from Pakistan Tehreek-e Insaf Parliamentarian (PTI-P) which are clubbed with the subject case and will be decided through the common order as the matter in issue relates to the allocation of reserved seats for women and non-Muslim.

04. The Counsel for the political party PML-N appeared and stated that PML-N is one of the major political party of the country and in General Elections, 2024, it emerged as a largest political party having secured the largest number of votes and the largest number of seats in the country. He argued that during General Elections, 2024, in the province of KPK, PML-N secured 5 general seats whereas, two independent candidates joined PML-N and the total number of the seats became seven. He stated that the Election Commission of Pakistan while deciding petitions filed by Sunni Ittehad Council (SIC) and others through a single order dated 01.03.2024, held that SIC was not entitled for allocation of reserved seats and the seats were allocated to the other political parties on the basis of proportional representation system. He further added that the said



order of the Commission was challenged before Peshawar High Court, Peshawar through writ petition No. 1272-P/2024 which was dismissed by upholding the order of the Commission dated 01.03.2024. SIC challenged the order of Peshawar High Court before the Supreme Court of Pakistan in CPLA No. 333/2024. He stated that the august Supreme Court of Pakistan through its short order dated 12.07.2024 set-aside the judgment of Peshawar High Court dated 14.03.2024 and held that PTI is entitled for the reserved seats. This order was challenged through Review petitions filed by the Commission and Pakistan Muslim League (N) and others which was finally settled by the Constitutional Bench of Supreme Court through short order dated 27.06.2025 by allowing the Review Petitions setting aside the majority judgment and the order of Peshawar High Court, Peshawar was upheld. He further contended that thereafter the Election Commission of Pakistan re-allocated the reserved seats for women and non-Muslim by adopting a formula which is that the total number of seats won by political parties in the province which was divided by the total number of reserved seats for women and the non-Muslim in the province. He stated that vide issuing the notification dated 04.03.2024 in respect of seats reserved for women in the Provincial Assembly of KP, the total number of general seats of PML-N was mentioned as six, however, in the same notification for non-Muslims it was counted as seven. He further contended that Jamiat Ullema-e-Islam Pakistan (JUI-P) and PML-N were having equal seven General seats, therefore, it was also mentioned in the same notification that one reserved seat will be given by drawing a lot between JUI-P and PML-N. He while extending his arguments stated that it was a surprise for PML-N that the Commission without adhering to its own formula and without drawing a lot, issued another notification dated 26.03.2024, whereby, the last reserved seat for non-Muslim was allotted to the candidate of JUI-P and the general seats of PML-N was reduced from seven to six (7 to 6). He also highlighted that the notification dated 26.03.2024 issued by the Commission was challenged vide writ petition No. 1739-P/2024 before the Peshawar High Court, Peshawar, however, since the august Supreme Court of Pakistan passed short order dated 12.07.2024 and review petitions were pending, the writ petition was withdrawn with the permission to file afresh. He also stated that PML-N has also submitted an application to the Commission regarding



counting of total number of general seats of PML-N as seven instead of six as while reducing the number of seat PML-N will be deprived of its legitimate right of reserved seats for women and non-Muslim in the province of KP. He also stated that it is also the deprivation of fundamental right of the political party and its candidates. He also stated that the Commission after final settlement of the matter of reserved seats from the Supreme Court of Pakistan issued a notification dated 02.07.2025 whereby, returned candidates against various categories of reserved seats were notified, PML-N was again allocated seats on the basis of six general seats. He explained that five general seats were secured in the General Elections, 2024 and two independent candidates have joined PML-N, whereby, PML-N is entitled for total ten reserved seats for women and non-Muslims. He referred to various provisions of the Constitution and Elections Act & Rules, 2017 including Article 2(A), 5, 34, 51 & 106, Section 18(2), 104(8) of the Elections Act, 2017 and Rules 92, 94 & 95 of the Election Rules, 2017. He contended that an independent candidate Malik Tariq Awan was notified as returned candidate on 22.02.2024 and he joined PML-N on 23.02.2024. He referred to proviso of Article 51(e) and Article 106(3) of the Constitution and stated that for the purpose of calculation of reserved seats shall include total number of general seats won by the political party which shall include independent returned candidates or candidates who may join such political party within three days of the publication in the official gazette of the names of returned candidates. He emphasized that Malik Tariq Awan was constitutionally entitled to be considered in the calculation of quota for reserved seats for women and non-Muslims from PML-N as he has three days time given by the Constitution to join a political party. He while concluding his arguments prayed that the reserved seats for women and non-Muslims may be allocated to the petitioner's party on the basis of seven general seats.

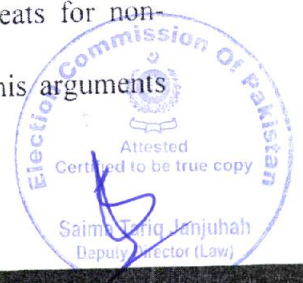
05. Mr. Kamran Murtaza, ASC counsel representing JUI-P appeared and stated that the plea of the petitioner's party is not acceptable as one and half year has passed after the general elections 2024 and in case their request is accepted it will be an un-ending process and exercise for the Commission throughout the tenure of the government. He stated that Mr. Tariq Awan is not an aggrieved party as he contested general elections as independent candidate and he did not



raise any issue whereby, his fundamental right is being infringed. He highlighted that he has requested for the notification of right Gopal Singh which is not acceptable. He referred to the proviso of Article 106 of the Constitution and Section 98 of the Elections Act, 2017 and argued that fourteen days time has been specified by the law makers for notification of the names of the returned candidates, however, during the general elections 2024 the notifications were issued separately and not in one go. He also submitted that most of the notifications were postponed or even in case of any decision by the Tribunal the Commission cannot disturb the allocation of reserved seats after every decision by the Tribunal or by the apex Courts. He also pointed out that the order of the Peshawar High Court, Peshawar dated 08.07.2025 has been challenged before the Supreme Court of Pakistan and the matter is *subjudice* before the apex Court. Therefore, he requested the Commission to dismiss the petition of PML-N or to pend the matter till the decision of the Supreme Court of Pakistan.

06. The Counsel for Pakistan People's Party (Parliamentarian) (PPP-P), Mr. Nayyar Bokhari, ASC appeared and stated that the controversy regarding allocation of reserved seats is between PML-N and JUI-P and PPP-P is not a necessary party in the petition. He also argued that Pakistan People's Party (Parliamentarian) has won four general seats, and on the basis of four seats reserved seats have been allocated to the said political party.

07. The representative of Awami National Party (ANP) stated that Awami National Party (ANP) currently has two elected members in the Provincial Assembly of Khyber Pakhtunkhwa. One MPA was elected during the General Election-2024, while second was elected in subsequent bye-election. He contended that as per Notification dated 4th March, 2024, issued by the Election Commission of Pakistan (ECP), ANP was allocated one (1) seat reserved for women in the Khyber Pakhtunkhwa (KP) Provincial Assembly, based on its representation at that time. The applicant prayed for review of calculation of quota made by the Commission and requested for allocation of at least two reserved seats for women and further seats for non-Muslims in the Provincial Assembly of Khyber Pakhtunkhwa. He in support of his arguments



stated that it is for the first time in the history that due to non-administration of oath from the members on the reserved seats for women and non-Muslims the Commission can entertain the subsequent changes in shape of bye-elections and notifications after the cutoff date for calculation of quota for reserved seats for women and non-Muslims.

sd- 08. The Counsel for PTI-P appeared and stated that they have submitted a representation whereby, all the annexures and notifications have been annexed with. He argued that two candidates of PTI (P) were notified by the Commission on 22.02.2024 and 27.02.2024 from PK-74 and PK-103. He stated that the Commission while issuing Notification dated 04.03.2024 allocated one reserved seat for Women to PTI (P), however, on the basis of two General seats the party was entitled for two seats reserved for Women and Non-Muslims. He mentioned that the cutoff date is not mentioned anywhere in the Constitution and rules, however, fourteen days time has been given under Section 98 of the Elections Act, 2017 for notification of returned candidates. The Counsel prayed for recalculation of quota and allocation of another seat reserved for women and non-Muslims from its validly submitted priority list for reserved seats for Women and Non-Muslim in the Provincial Assembly of KP.

09. The candidates from the party PML-N mentioned at Sr. No. (6-20) in the cause list were also issued notices, however, the candidates at Sr. No. 12, 15, 16, 17, 18 & 20 were present and stated that they are adopting the arguments advanced by Mr. Amir Javed ASC representing PML-N as a political party. Mr. Amir Javed, ASC has also submitted power of attorney on behalf of candidates at Sr. No. 6 to 20.

10. The candidates from the Party JUI-P mentioned at Sr. No. 21 to 41 were also issued notices. Mr. Kamran Murtaza, ASC submitted power of attorney on behalf of all the candidates mentioned at Sr. No. 21 to 41 and stated that he has already advanced his arguments on behalf of JUI-P.

11. The candidates of political party PPP-P mentioned at Sr. No. 42 to 55 were also issued notices. Candidate at Sr. No. 43, 45, 47, 48, 49 51, 53, & 55 were present in-person and



stated that they have adopted the arguments advanced by the counsel for PPP-P Mr. Nayyar Bokhari, ASC.

12. Similarly, notices were also issued to the political party ANP which are mentioned at Sr. No. 56 to 66. Candidates at Sr. No. 60, 64 & 66 were also present in-person and adopted the arguments advanced by the counsel representing ANP.

13. The candidates for political party PTI-P were also issued notices which are mentioned at Sr. No. 67 to 76. Candidate at Sr. 67, 68, 70, 71, 73 & 76 were present and adopted the arguments advanced by the counsels representing PTI-P.

REBUTTAL:

-Sd- 14. The counsel for the petitioner's party (PML-N), Mr. Amir Javed, ASC stated that he is agreed with the stance of the Commission that there should be a cutoff date for calculation of quota for reserved seats for women and Non-Muslims, otherwise, it will be an un-ending process to notify and de-notify different candidates and re-calculation from time to time. He stated that his case or the writ petition would not affect the calculation of quota of the other provinces as the case of the petitioner's party is different and the only interpretation is with respect to the joining of the independent candidates to a political party within three days time mentioned under the Constitution. So he requested that he has a genuine case and relief may be granted accordingly.

15. Arguments of the representatives of different political parties, contesting candidates and their respective counsel, heard and available record perused.

16. Before going into the details of the case, the relevant provisions of the Constitution and Law governing the subject matter are reproduced below:-

ARTICLE 106 OF THE CONSTITUTION, 1973.

"Article 106

(1).....

(2).....



- (a)
- (b)
- (c)
- (d)

(3)

(a) the constituencies for the general seats shall be single member territorial constituencies and the members to fill such seats shall be elected by direct and free vote;

(b) each Province shall be a single constituency for all seats reserved for women and non-Muslims allocated to the respective Provinces under clause (1);

(c) the members to fill seats reserved for women and non-Muslims allocated to a Province under clause (1) shall be elected in accordance with law through proportional representation system of political parties lists of candidates on the basis of the total number of general seats secured by each political party in the Provincial Assembly;

Provided that for the purpose of this sub-clause, the total number of general seats won by a political party shall include the independent returned candidate or candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates;".

ARTICLE 224(2) OF THE CONSTITUTION, 1973.

"224. 1

(1B)

(2) When the National Assembly or a Provincial Assembly is dissolved, a general election to the Assembly shall be held within a period of ninety days after the dissolution, and the results of the election shall be declared not later than fourteen days after the conclusion of the polls."

SECTION 98 OF THE ELECTIONS ACT, 2017.

"98. Declaration of results.—(1) On receipt of the Final Consolidated Result from the Returning Officer, the Commission shall, within fourteen days from the date of the poll, publish in the official Gazette the name of the contesting candidate who has received the highest number of votes and stands elected.

RULE 92 OF THE ELECTION RULES, 2017.

"92. Election to seats reserved for women and non-Muslims.— (1) Election to the seats reserved for women and non-Muslims in the National Assembly and Provincial Assemblies shall be held on the basis of proportional representation system of political parties' lists of candidates in accordance with the provisions of these Rules and the Act.

(2) The Members to fill seats reserved for women in the National Assembly allocated to a Province shall be elected through proportional representation system of political parties' lists of candidates submitted to the Commission on the basis of total number of general seats won by



each political party from the Province concerned in the National Assembly.

(3) The Members to fill seats reserved for women allocated to a Province shall be elected through proportional representation system of political parties' lists of candidates on the basis of total number of general seats won by each political party in the Provincial Assembly.

(4) The Members to fill seats reserved for non-Muslims in the National Assembly and the Provincial Assemblies shall be elected through proportional representation system of political parties' lists of candidates on the basis of total number of general seats won by each political party in the National Assembly, or, as the case may be, in the Provincial Assembly.

(5) If, at any time, the party list is exhausted, the political party may submit a name for any vacancy which may occur thereafter and the provisions of sub-section (1) and subsection (2) of section 104 shall, as nearly as possible, apply to fill such vacancy.

(6) For the purpose of this rule, the expression "total number of general seats won by political party" shall include the independent returned candidate or candidates who may duly join such political party within three days of the publication in the official Gazette of the names of the returned candidates:

Provided that if the independent candidate applies to the leader of a political party for joining his party then the leader of that political party will forthwith inform the Commission of joining of such candidate through a letter to be delivered to the Commission along with consent of that candidate duly attested by a Notary appointed under the Notaries Ordinance, 1961 (XIX of 1961) or an Oath Commissioner appointed under the Oaths Act, 1873 (X of 1873) or a Government servant in basic pay scale 17 and above: Provided that the consent of the independent candidate so delivered to the Commission shall, in no circumstances, be open to recall or cancellation.

(7) The political parties' lists of candidates to be submitted under this rule to the Commission in connection with election to the reserved seats for women or non-Muslims in an assembly shall be on Form-66.]"

17. The General Elections were held on 8th February 2024 and the Commission notified the returned candidates of the National as well Provincial Assemblies including independent candidates. The independent returned candidates had a choice to join a political party within three days from the date of their notifications as provided in Articles 51(6) (d) and (e) 106(3) of the Constitution read with Rule 92 of the Election Rules 2017. The cutoff date for finalization of result and issuance of notifications of returned candidates was 22nd February 2024 as required under Article 224 (2) of the Constitution and section 98(2) of the Elections Act. The returned candidates nominated by the political parties and independent candidates who had joined



such political parties of their choice were considered for the purpose of calculation of quota for reserved seats for women and non-Muslims. However, due to some legal issues requiring interpretation of constitutional and legal provisions in respect of allocation of reserved seats to a Political Party i.e "Sunni Ittehad Council (SIC)", the matter was fixed for hearing before the Commission. The Commission after hearing all the relevant stakeholders vide order dated 01-03-2024 decided the matter and held that SIC was not entitled for allocation of reserved seats for women and non-Muslims.

18. The order of the Commission was challenged by Sunni Ittehad Council (SIC) before the Peshawar High Court Peshawar through writ petition No. 1272-P/2024. A five Member's bench of Peshawar High Court dismissed the writ petition vide order dated 14.03.2024 and maintained the order of the Commission. Thereafter, the Sunni Ittehad Council challenged the order dated 01-3-2024 passed by the Commission and the order of Peshawar High Court in the Supreme Court. The Supreme Court by a majority short order dated 12.7.2024, while disposing of the appeal filed by Sunni Ittehad Council held that reserved seats shall be allocated to Pakistan Tehreek-e-Insaf (PTI) on the basis of their affiliation with PTI shown in their nomination papers, along with declaration and party certificates. However, the short order dated 12.7.2024 followed by detailed judgment dated 23-09-2024 was set-aside in review jurisdiction by constitutional bench of the Supreme Court and the order of Peshawar High Court and that of the Election Commission was maintained. The Commission sorted out the quota of reserved seats for women and non-Muslims on the basis of party position as it stood on 22-02-2024. No subsequent seats won or secured by political parties and notified after 22-02-2024 were included while calculating the quota for reserved seats on 22-02-2024 and 03-04-2024 and allocation of seats.

19. The proviso of Article 51(6)(e) read with Article 106 of the Constitution provides that the calculation of quota for the reserved seats shall be made on the basis of total number of general seats won by political party which shall include the independent returned candidate or candidates who may duly join such political party within three days of the publication in official



gazette of the names of the returned candidates. Similarly, Article 91(2) of the Constitution provides that the National Assembly shall convene on the twenty-first day following the date of a general election to the Assembly, unless an earlier meeting is summoned by the President. The Commission in the subject case calculated the quota for reserved seats for women and non-Muslims on 22.02.2024, however, the counsel for the petitioner highlighted the issue before the Peshawar High Court, Pesh through the subject writ petition that Malik Tariq Awan who was declared as independent returned candidate on 22.02.2024 was not given three days time to join a political party as provided under Article 51 and 106 of the Constitution of Islamic Republic of Pakistan, 1973. The Commission has gone through the record and found that Malik Tariq Awan joined PML-N on 23.02.2024 after the calculation of quota for reserved seats for women and non-Muslims by the Commission. The joining of PML-N by Malik Tariq Awan was within three days from the date of notification as provided under Articles 51 and 106 the Constitution and he was eligible to be considered as member of PML-N for calculation of quota for the reserved seats for women and non-Muslims. It is the Constitutional and fundamental right of political parties as well as candidates to get benefit of the reserved seats under Article 51(6)(e) read with Article 106 of the Constitution. Therefore, the Commission while observing the Constitutional command mentioned above and the observation of Peshawar High Court, Peshawar contained in order dated 08.07.2025 and to fulfill its Constitutional duty, accept the plea of the petitioner and decides that the name of Malik Tariq Awan be included for the purpose of calculation of quota and allocation of reserved seats for women and non-Muslims to the political party (PML-N) joined by him in the Provincial Assembly of KP within prescribed period envisaged under proviso of Article 106(3) of the Constitution read with Rule 92 of the Election Rules, 2017.

CASE OF AWAMI NATIONAL PARTY (ANP).

20. The counsel for the political party namely ANP also raised objections in respect of calculation of quota and allocation of reserved seat by the Commission and also filed two separate applications which have been perused. We have examined the available record and observed that



ANP has secured one general seat from PK-75 Peshawar-IV during the General Elections 2024, which was notified on 22.02.2024. Subsequently, in bye-election Awami National Party (ANP) secured another seat from PK-22 Bajaur-IV, held on 11.07.2024 and returned candidate was notified on 25.07.24. In accordance with the Constitution and applicable legal provisions, the quota for allocation of reserved seats for Women and Non-Muslims to political parties is calculated on the basis of **General Seats** won/secured, including independent returned candidates who join a political party within three days of the election of the Notification of the returned candidates as enshrined in Article 224(2), 51 and 106 of the Constitution and not on the basis of subsequent bye-elections. Results of bye-elections cannot be included as it is not the spirit of Constitution provided under Article 224(2) of the Constitution read with Section 98 of the Elections Act, 2017. In case this petition is accepted it will be un-ending processes which will result recalculation/fluctuation of seats from time to time after each and every bye-election or decision of the Tribunal. Therefore, the request of ANP is not sustainable, hence, rejected.

CASE OF PAKISTAN TEHREEK-E-INSAF PARLIAMENTARIAN (PTI-P).


21. We have also gone through the contentions raised by the counsel for PTI-P, it is observed that previously Mr. Habib Noor Orakzai (General Secretary of PTI-P & others) filed a writ petition No. 1058/2024 before the Islamabad High Court, whereby he has challenged the notification dated 04.03.2024 issued by the Commission regarding the allocation of reserved seats for Women and non-Muslims and on 28.03.2024 the Islamabad High Court referred the matter to the Commission with the direction to decide the issue of allocation of reserved seats after providing opportunity of hearing to the petitioners and the concerned parties. The Commission fixed the matter for hearing with notices to the relevant parties and after hearing the applicants dismissed the petition through speaking order on 05.04.2025. The petitioner again challenged the order dated 05.04.2024 before the Islamabad High Court by filing writ petition no. 1270/2024 which was lastly fixed for hearing on 07.07.2025 and still pending *adjudication*. During the pendency of the above mentioned writ petition before the Islamabad High Court, the petitioner




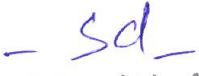
also filed writ petition no. 4320/2024 before the Peshawar High Court, Peshawar, with similar prayer which was dismissed as withdrawn by the petitioner party.


22. From the perusal of the record it is revealed that PTI-P has won two general seats in the General Elections 2024 from Provincial Assembly of KPK and the quota for the reserved seats was calculated and notified by the Commission on 22.02.2024. At that time one seat was duly notified for PTI-P from PK-73 Peshawar-III. Subsequently, another candidate of the said party from PK-103 was notified on 27.02.2024 after the calculation and allocation of reserved seats to the political parties. Therefore, recalculation of quota for reserved seats for women and non-Muslims at belated stage after allocation of reserved seats to the political parties is not supported by the Constitution and law. The rationale for calculation of quota for the reserved seats on the basis of party position on 22-02-2025 was to avoid unending controversies. For example, if a political party succeeds in getting more seats as a result of recounting or by-election or decision of the tribunal, the quota will be revised again and again and it will be an unending process which is against the spirit of Constitution and Law as enshrined in Articles 51(6) & 106 of the Constitution and Section 98 & 104 of the Elections Act, 2017 and Rule 92 of the Election Rules, 2017. In view of the above discussion, the request of PTI-P cannot be acceded to, therefore, rejected.


23. Office is directed to take follow-up action in the light of abovementioned order and submit the case to the Commission accordingly.


Sikandar Sultan Raja
Chairman


Nisar Ahmed Durrani
Member


Shah Muhammad Jatui
Member


Babar Hassan Bharwana
Member


Justice (R) Ikramullah Khan
Member

Announced on 15-07-2025

