

ELECTION COMMISSION OF PAKISTAN

ORDER

22-01-2024

Subject: IMPLEMENTATION OF ORDER PASSED BY THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR DATED 18.01.2024 IN WRIT PETITION 6286-P/2023 FILED BY MUHAMMAD SADIQ AND ANOTHER IN RESPECT OF DELIMITATION OF PK-70 AND PK-71 DISTRICT KHYBER.

WHEREAS, the Election Commission of Pakistan is a Constitutional body constituted under Article 218(2) of the Constitution of Pakistan, 1973 (hereinafter referred as the "Constitution").

AND WHEREAS, the Election Commission of Pakistan is mandated under Article 218(3) of the Constitution to organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against.

AND WHEREAS, Pakistan Bureau of Statistic officially published the final results of 7th Digital Population and Housing Census-2023 on 07.08.2023 and the Election Commission of Pakistan, in pursuance of the provisions of Article 218(3) of the Constitution read with Section 17 of the Elections Act, 2017, initiated the exercise of delimitation.

AND WHEREAS, the preliminary delimitation of the constituency (District Khyber) was carried out by the delimitation committee which was published on 27-09-2023 for inviting representations/objections. Only 24 representations were filed by the objectors while challenging the preliminary report of Constituencies and the Commission after hearing all the concerned parties decided the representations on 26.11.2023.

AND WHEREAS, the order dated 26.11.2023 passed by the Commission and Form-7 uploaded on the website dated 30.11.2023 were challenged before the Hon'ble Islamabad High Court, Islamabad through Writ Petition Nos. 4142/2023 and 4066/2023 due to typographical error which was creating anomaly in the order and lacking contiguity of constituencies on map and Form-7.

AND WHEREAS, the Hon'ble Islamabad High Court, Islamabad vide order dated 14.12.2023 remanded the matters to the Commission with the observations to decide the matter after hearing all the concerned parties. The matter was fixed for hearing on 15.12.2023 for 18.12.2023 with notices to all the parties.

AND WHEREAS, on 18.12.2023, all the objectors were heard and matter was reserved for orders. The written order of the Commission was uploaded on the website on 27.12.2023. Meanwhile, due to another typographical error the order was corrected in respect of missing 3 village councils i.e (Malik Waris Khan Kalay, Hazrat Guli Kalay and Bazar Guli Kalay) which was rectified and again uploaded on 27.12.2023.



AND WHEREAS, the above mentioned order dated 18.12.2023 was challenged before Peshawar High Court, Peshawar in Writ Petition No. 6286-P/2023 which was decided by the Hon'ble Peshawar High Court on 18.01.2024. Prior to this the Hon'ble Peshawar High Court, Peshawar vide order dated 29.12.2023 directed the Returning Officer to proceed with the process of nomination papers in accordance with the order dated 27.12.2023 which was at page 57-63 of the Writ Petition.

AND WHEREAS, the Hon'ble Peshawar High Court, Peshawar set-aside the order passed by the Commission on 18.12.2023 in respect of the Constituencies of the writ petitioners namely PK-71 Khyber-III and shifting of three VCs namely (Malik Waris Khan Kalay, Hazrat Guli Kalay and Bazar Guli Kalay) there from to PK-70 Khyber-II.

AND WHEREAS, meeting of the Commission is convened and all the available record and status of printing of ballot papers has been checked from the concerned printing press.

AND WHEREAS, the Commission observed that the Hon'ble Peshawar High Court, Peshawar vide order dated 29.12.2023 directed the concerned Returning Officer to proceed further in line with the order of the Commission in which 3 VCs namely (Malik Waris Khan Kalay, Hazrat Guli Kalay and Bazar Guli Kalay) were part of PK-71. Therefore, the Returning Officer is proceeding in line with the directions of the Hon'ble Peshawar High Court, Peshawar.

AND WHEREAS, any change at this belated stage may affect timely conduct of General Election-2024 in the Constituencies PK-70 and PK-71 of District Khyber.

AND WHEREAS, the polling schemes have been prepared and the process of printing of ballot papers has been started.

NOW THEREFORE, the Commission by taking into consideration the legal and constitutional provisions and in exercise of its powers under Article 218(3) read with Sections 4, 8(b) and 8(c) of the Elections Act, 2017 and all other enabling provisions in this behalf decides to implement the order of Hon'ble Peshawar High Court, Peshawar for timely conduct of General Elections-2024 in the Constituencies of PK-70 and PK-71 of District Khyber. The representations initially filed before the Commission shall remain pending till the conduct of General Election-2024 which will be decided after 08th February, 2024 after hearing all the concerned parties. The office & Returning Officer are directed to proceed accordingly.

SIKANDAR SULTAN RAJA

Chairman

SHAH MUHAMMAD JATOI

Member

NISAR AHMED DURRANI

Member

BABAR HASSAN BHARWANA

Member

JUSTICE (R) IKRAMULLAH KHAN

Member

