

BEFORE THE ELECTION COMMISSION OF PAKISTAN

PRESENT:

MR. SIKANDAR SULTAN RAJA	CHAIRMAN
MR. NISAR AHMED DURRANI	MEMBER
MR. SHAH MUHAMMAD JATOI	MEMBER
JUSTICE (R) IKRAM ULLAH KHAN	MEMBER

Case No. F. 8(1)/2024-Law-III

In Ref: APPLICATION UNDER SECTION 151 OF THE ELECTIONS ACT, 2017 READ WITH ARTICLE 219 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 ALONG WITH ALL OTHER ENABLING PROVISIONS OF LAW, FOR THE TRANSFER OF THE ELECTION PETITION NO. 74/ 2024 TITLED AS AAMER MASOOD VS ANJUM AQEEL KHAN AND OTHERS FROM THE WORTHY ELECTION TRIBUNAL ICT ISLAMABAD TO ANY OTHER ELECTION TRIBUNAL.

Anjum Aqeel Khan

....Petitioner

Versus

Amer Masood

.....Respondent

For the Petitioner : In person along with
Najam Hanif Sheikh, ASC

For the Respondent : In person along with Faisal Fareed ASC,

Date of Hearing : 07-06-2024

ORDER

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JUSTICE (R) IKRAM ULLAH KHAN Through the instant order, we propose to decide, the application bearing No.8(1)/2024-Law-III filed by applicant namely Anjum Aqeel Khan under the provisions of section 151 of the Elections Act, 2017 (herein after referred as "the Act, 2017").

02. The brief facts necessary for adjudication of the subject application is, that respondent herein, namely Aamer Masood and the applicant contested the elections for National Assembly (NA-46 ICT-I). Applicant was declared as Returned Candidate by the ECP on



11.02.2024. The respondent felt aggrieved from the notification of Returned Candidate, challenged the said elections before the Learned Election Tribunal, Islamabad (herein after referred as "the Tribunal") notified under section 140 of the Act, 2017 by the ECP.

03. The Tribunal, on assumption of charge and presentation of the election petition, issued notices to all the respondents in the petition.

04. The Tribunal, while issuing notices to the respondents also asked for complete documentary evidence in shape of forms 45 and 46 and subsequently on 30.05.2024 made directions to the respondent to implead not only Election Commission of Pakistan but also Returning Officer (R.O) and Assistant Returning Officer (A.R.O) in the panel of respondents and simultaneously, made directions to all the respondents to submit their respective written statements. The Tribunal in order to dispose of the subject election petition as soon as possible summoned the original record of Form 45 and 46 not only from ECP but also from the RO and all contesting candidates who were made party thereto the petition.

05. Applicant being aggrieved and dissatisfied from the conduct of the pre-trial approached this Commission by filing the subject application.

06. The Learned counsel for applicant vehemently contended that the Tribunal is not conducting the trial of the election petition in accordance with the provisions of law and rules, prescribed there under the Act, 2017 and the Rules, 2017;

- sd.
- i. *that the procedure of trial, admission of an election petition, adducing of evidence in an election trial, is special procedure, which shall be strictly followed, but the Tribunal keeping in view the un-necessary summarily procedure adopted therein, seems to be disposing of the petition by bypassing the fundamental rights, enshrined in Article 4 and 10-A of the Constitution (herein after referred as "the Constitution") vested in applicant;*
 - ii. *that a hopelessly time barred, non-maintainable and in-competent petition has been put to trial, without compliance thereto Rule 140 of the Rules, 2017 and provisions of Sections 145 of the Act, 2017;*
 - iii. *That the Election Petition has been admitted for regular hearing without adopting the procedure laid down under Section 143 of the Act, 2017;*

