

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) IKRAM ULLAH KHAN,	MEMBER

CASE No. F. 17(5)/2025-Coord. (M/F)
Clubbed With
CASE No. F. 2(5)/2024-Coord.-Vol-XII (P/F)
&
CASE No. F. 2(5)/2024-Coord (P/F-I)

Subject: REFERENCE FOR DISQUALIFICATION OF MR. ABDUL LATIF, MNA FROM NA-I, CHITRAL UPPER-CUM-CHITRAL LOWER UNDER ARTICLES 62 & 63 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN.

REPRESENTATION UNDER ARTICLES 62(1)(F) & 63(1)(H) OF THE CONSTITUTION OF PAKISTAN FOR PREVENTING DISQUALIFIED PERSONS FROM CONTESTING ELECTION ON THE BASIS OF JUDGMENT DATED 30.05.2025 PASSED BY ANTI TERRORISM COURT, ISLAMABAD.

&

COMPLAINT TO DE-SEAT MR. ABDUL LATIF, MNA NA-1, FROM MR. SAJID ALI BROHI ON THE BASIS OF JUDGMENT DATED 30.05.2025 PASSED BY ANTI TERRORISM COURT, ISLAMABAD.

On Commission's Notice

For the Petitioners

Mr. Fazal-ur-Rehman	:	Sajeel Sheriyyar Swati (ASC)
Mr. Fazal-ur-Rehman	:	Sajeel Sheriyyar Swati (ASC)
Mr. Sajid Ali Brohi	:	Sajeel Sheriyyar Swati (ASC)

.....Petitioners

For the respondents:

Mr. Abdul Latif	:	Muhammad Muazzam Butt (ASC)
-----------------	---	-----------------------------

.....Respondent

For the Election Commission :	:	Special Secretary, Special Secretary (Law), DG (Pol. Finance), ADG (Pol. Finance), ADG (Law), Director (Law), DD Confidential
Date of hearing	:	<u>29-07-2025</u>



ORDER

Sikandar Sultan Raja, Chairman; By way of short order dated 29.07.2025, this Commission had allowed the present matters and declared the respondent, Mr. Abdul Latif (MNA, NA-I), disqualified from being a Member of the National Assembly. Reasons for that short order were reserved. We now proceed to record the detailed reasons in support of the said short order. As the matters presented before the Commission involve similar question and are interconnected, so all the above mentioned petitions are being disposed of through this single order.

Brief Facts of the Reference

02. Two applications were received one from Mr. Sajid Ali Brohi (Applicant No. 1) to the Commission through Complaint Management System (CMS) and another representation from Mr. Fazal-ur-Rehman (Applicant No. 2) dated 10.07.2025. The Petitioners/Applicants contended that the Respondent Mr. Abdul Latif who was sitting Member National Assembly (MNA) was convicted by Anti Terrorism Court (Special Court to Islamabad) in case FIR No. 340/2023 dated 10.05.2023 registered at Police Station Ramna titled State Vs. Saryab and Others. He prayed for disqualification of the Respondent from being an MNA under Article 62 & 63 of the Constitution of Islamic Republic of Pakistan.

sd- 03. Mr. Fazal-ul-Rehman also submitted an application to the Speaker, National Assembly on 11.07.2025, seeking disqualification of Mr. Abdul Latif under Articles 62 and 63 of the Constitution of the Islamic Republic of Pakistan. The Applicant alleged that Mr. Abdul Latif does not fulfill the qualifications prescribed for membership of the National Assembly, particularly under Article 62(1)(f) and Article 63(1)(h), following his conviction and sentence awarded by a competent court of law. Consequently, the Speaker forwarded the reference to the Election Commission of Pakistan on 16.07.2025, observing that the respondent stood convicted by a court of competent jurisdiction.

04. The Commission had received copy of the judgment of the trial court convicting respondent and also a copy of short order dated 03-07-2025 of the Islamabad High Court in appeal Nos 220/2025 and 227/2025 vide which the judgment of the trial court dated 30-05-2025 was set-aside. Detailed judgment was not released and the Commission decided to fix the matters for confirmation as to whether respondent Abdul Latif Chitrali is also beneficiary of the said judgment of the High Court or otherwise. Notices were issued to the parties for 29.07.2025 with the direction to appear in person or through authorized counsel.



05. Mr. Sajeel Shahyar Sawati, ASC, appeared on behalf of Mr. Fazal-ur-Rehman and argued that Mr. Abdul Latif has been convicted by the Special Court, and the conviction had not been set aside till date. He referred to the short order passed by Islamabad High Court dated 03.07.2025 as Appellate forum in Criminal Appeals No. 220/2025 and 227/2025 and stated that detailed judgment has been released. He submitted attested copy of the detailed judgment before the Commission. He stated that through the detailed judgment the Islamabad High Court has clarified that the acquittal on the basis of benefit of doubt is applied only to the extent of four co-accused namely Muhammad Akram, Meera Khan, Sohail Khan and Shahzaib and the judgment of the Anti Terrorism Court is set-aside only to the extent of these four accused. He further stated that the conviction of Mr. Abdul Latif, MNA, NA-I, is still intact and was not set aside by the Appellate court as he did not file an appeal against the order of Anti Terrorism Court dated 30.05.2025. He further, argued that no benefit of those appeals could be extended to the respondent. Learned counsel further contended that Mr. Abdul Latif has absconded, and raised the legal question as to whether an absconder could be represented by a duly authorized person in proceedings before the Commission. He placed reliance on **PLD 2012 SC 774**, and submitted that a conviction having attained finality results in disqualification under **Article 63(1)(h)** of the Constitution. He pointed out that as the Speaker forwarded the matter to the Commission, neither the Speaker nor the Commission holds appellate or review powers over a judicial verdict. He prayed that the Commission is bound to recognize a valid conviction and requested for disqualification of the Respondent accordingly.

Submission on Behalf of Respondent

06. Mr. Muhammad Muazzam Butt, ASC, appeared on behalf of Mr. Abdul Latif and submitted power of attorney which was taken on record. He stated that he is not prepared to argue the case, as he has not received copy of the reference. He further contended that the Speaker had failed to provide a proper opportunity of hearing to the Respondent. He argued that the Respondent has now preferred an appeal against the order of Anti Terrorism Court dated 30.05.2025 which is pending before the Appellate court. He further stated that the appeal is the continuation of trial and in the detailed judgment nothing has been attributed to the Respondent. He further mentioned that the Commission has a period of 90 days to decide a reference and also argued that the case of the Respondent does not fall under the ambit of Article 63(1)(h) of the Constitution. He argued that the offence of moral turpitude is nowhere mentioned in the judgment of trial court as well as appellate court, therefore provision of Article 63(1)(h) is not attracted. He argued that the Commission has the power to disqualify a person if the case of respondent falls within the ambit of Article 63(1)(g) or (h) of the Constitution. Therefore, he



requested the Commission to adjourn the matter on the ground that an appeal is pending before the Islamabad High Court and as the matter does not falls in the category of Article 63(1)(h).

Special Secretary Law's Submission

07. The Special Secretary (Law) appeared and assisted the Commission while submitting judgments of the Apex court reported in PLD 2012 SC 774 and referred to Para 47 & 48 of the judgment to the Commission. He further countered the arguments of the counsel for the Respondent regarding moral turpitude and submitted three judgments reported in 2002 SCMR 169, 2008 PLC (C.S.) 239 & 2023 SCMR 803. He pointed out that all the convictions are covered under the definition of moral turpitude.

08. Arguments heard. Record perused.

09. Before going into the details of the matter, the relevant provisions of the Constitution are reproduced below:-

THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN

"63. Disqualifications for membership of Majlis-e-Shoora (Parliament) (1) A person shall be disqualified from being elected or chosen as, and from being, a member of the Majlis-e-Shoora (Parliament), if –

(g) he has been convicted by a court of competent jurisdiction for propagating any opinion, or acting in any manner, prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or the integrity, or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan, unless a period of five years has elapsed since his release; or

(h) he has been, on conviction for any offence involving moral turpitude, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release;

63 (2) If any question arises whether a member of the Majlis-e-Shoora (Parliament) has become disqualified from being a member, the Speaker or, as the case may be, the Chairman shall, unless he decides that no such question has arisen, refer the question to the Election Commission within thirty days and if he fails to do so within the aforesaid period it shall be deemed to have been referred to the Election Commission.

63 (3) The Election Commission shall decide the question within ninety days from its receipt or deemed to have been received and if it is of the opinion that the member has become disqualified, he shall cease to be a member and his seat shall become vacant.]

10. Brief facts of the case are that Mr. Abdul Latif Chitrali MNA from NA-I Chitral has been convicted by the Anti Terrorism Court (Special Court-II, Islamabad) presided over by Mr. Tahir Abbas Sipra in case FIR No. 340/2023 dated 10.05.2023 registered in Police Station Ramna with case titled State Vs. Saryab and Others under Sections 148, 149, 353, 324, 186, 188, 427, 436 & 440 of PPC read with Section 7 of Anti Terrorism Act, 1997. The Anti Terrorism



Court announced the judgment (referred as judgment of trial court) on 30.05.2024. The conviction and sentence along with relevant provisions of law are given below:-

- **Section 324 PPC:** 5 years' rigorous imprisonment, fine of Rs. 50,000/- , and 6 months' simple imprisonment in default;
- **Section 436 PPC:** 4 years' rigorous imprisonment, fine of Rs. 40,000/- , and 6 months' simple imprisonment in default;
- **Section 440 PPC:** 4 years' rigorous imprisonment, fine of Rs. 40,000/- , and 6 months' simple imprisonment in default;
- **Section 353 PPC:** 2 years' rigorous imprisonment, fine of Rs. 40,000/- , and 6 months' simple imprisonment in default;
- **Section 186 PPC:** 3 months' simple imprisonment;
- **Section 188 PPC:** 1-month simple imprisonment;
- **Section 148 PPC:** 2 years' rigorous imprisonment;
- **Section 7(1)(b) of ATA, 1997:** 10 years' rigorous imprisonment, fine of Rs. 200,000/-, and 6 months' simple imprisonment in default.

11. It is also on record that the Speaker has also forwarded the reference under Article 63(2) of the Constitution whereby, it is stated that Mr. Abdul Latif Chitrali has been convicted by the Anti Terrorism Court for a term of more than 10 years therefore, he may be disqualified.

sd- 12. We have minutely checked the record and gone through the relevant provisions of Articles for decision of the case. Article 63 of the Constitution provides that a **person** shall be disqualified from being elected or chosen as and **from being a member** of Majlis-e-Shoora (Parliament) on the grounds mentioned in (a) to (p) including conviction, dual nationality, holding of office of profit, non payment or defaulter of loans or dues, etc. It is also observed that Article 63(2) of the Constitution starts with the language "**if any question arises**" whether a member of Majlis-e-Shoora has become disqualified from being a member, the Speaker or the Chairman **shall decide the question** within 30 days otherwise, it shall be deemed to be referred to the Commission. Similarly, the language of Article 63(3) provides that "the Election Commission shall **decide the question**" within 90 days from its receipt or deemed to have been received and **if it is of opinion** that the member has become disqualified he shall cease to be a member and his seat shall become vacant.

13. The language of Article 63(2) and 63(3) specifically provides that rising of a question for its decision by the Speaker or the Chairman or the Election Commission of Pakistan for the disqualification of member of a Parliament is pre-requisite. It is observed from the careful perusal of the provisions of Article 63 of the Constitution that the question may arise in case of grounds mentioned at 63(1)(a) to (f) & (i) to (p) of the Constitution where there is no declaration from a competent court of law or where it is required to probe the matter by going through documentary or oral evidence. If there is a conviction by a competent court of law, under any law of the country after recording of evidence and complete trial, it does not require further



declaration or decision of question by any forum. The only remedy available to a convicted person is to approach the higher forums and to get his conviction set-aside. The provisions of Article 63(1)(g) & (h) do not require further probe or verification by a Speaker or Chairman or the Election Commission of Pakistan.

14. It is clearly provided in Article 63(1) that a person shall be disqualified from being a member of Majlis-e shoora (Parliament), if- he has been *convicted by a court of competent jurisdiction for propagating any opinion, or acting in any manner, prejudicial to the ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or the integrity, or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan, unless a period of five years has elapsed since his release; or he has been, on conviction for any offence involving moral turpitude, sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release.* The Language is express and un ambiguous. This clearly demonstrates that disqualification under sub clauses (g) and (h) are self sustaining and self executing and are not dependent upon any other provision. Therefore, the disqualification is *ipso-facto* and the Commission has no power to delay the matter but has to issue a notification of disqualification of a convicted member. No time frame is provided in Article 63(1) (g) and (h) for issuance of notification of disqualification as the person stands disqualified as soon as he is convicted and the Commission is under obligation to de-notify him being disqualified.

sd- 15. The Speaker or Chairman or the Commission cannot act as a reviewing authority or an Appellate forum to set-aside the judgment of competent court of law in respect of sentence or conviction. The August Supreme Court of Pakistan in case reported in PLD 2012 SC 774 titled Muhammad Azhar Siddique and others Vs. Federation of Pakistan and others has held that where there is conviction by the competent court of law, the Speaker or the Commission cannot sit on the matter and the Commission is required to issue a notification for de-notifying the convicted person as member of Parliament or an Assembly. Furthermore, the court has also held that a convicted person cannot represent a constituency.

Moral Turpitude

16. The connotation "moral turpitude" has been discussed by the Supreme Court in various judgments reported in *2008 P L C (C.S.) 934*, *2002 S C M R 1691* and *2023 SCMR 803etc*

17. Therefore, in view of all the above discussion the Commission is under obligation to issue a notification of disqualification of a member of Assembly or Senate where there is conviction by a competent court of law in any case for more than two years notwithstanding a reference under Article 63(2) of the Constitution. A reference in this case as referred hereinabove has also been received from the speaker National Assembly which augment the disqualification of the respondent and as the Commission is already of the opinion that the respondent has become disqualified on account of being convicted for more than two years, the reference is decided accordingly.



18. Above are the detailed reasons for the short order, dated 29.07.2025 which is reproduced below:-

"For reasons to be recorded later on in the subject matters. Arguments heard and record perused. Attested copy of the detailed judgment of the Islamabad High Court in Cr. Appeals No 220/2025 and 227/2025 titled "Muhammad Akram and another versus The State" and "Sohail Khan and another versus The State" released on 29-07-2025 was presented by the counsel for the applicants, before the Commission, during hearing (today) whereby the appeals have been allowed, and the judgment of the trial court dated 30-05-2025 has been set-aside to the extent of the appellants mentioned herein above. The Judgment of the trial Court is still in field against the respondent Abdul Latif whereby he has been convicted and sentence for a period of 10 years. During hearing reliance was placed on the judgement reported in PLD 2012 Sc 774 "M. Azher Siddique versus Federation of Pakistan and others". Deriving wisdom from the referred judgment wherein it has been held that "where there is a conviction recorded by a competent court against a person who is a member of the Parliament which has attained finality, the role and function of the Election Commission is confined to issuing notification of disqualification of the concerned member on the basis of the verdict of the Court". Therefore, in terms of Article 63(1)(h) of the Constitution, Mr. Abdul Latif Chitrali has become disqualified on account of his conviction by a court of competent jurisdiction. He is accordingly de-notified from NA-01 Chitral.

02. Office is directed to take Follow up action accordingly."

-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

Date of issuance of detailed judgment: 07-08-2025.

