

BEFORE THE ELECTION COMMISSION OF PAKISTAN

PRESENT:

MR. NISAR AHMED DURRANI, MEMBER  
MR. BABAR HASSAN BHARWANA, MEMBER  
MR. JUSTICE ® IKRAM ULLAH KHAN, MEMBER

Case No. 3(62)/2022-Confidential

In Ref: APPLICATION REGARDING FAKE INTRA PARTY  
ELECTION CERTIFICATE SUBMITTED BY MR  
ASADULLAH BALOCH

IN  
In Ref: SUBMISSION OF DOCUMENTS REGARDING INTRA  
PARTY ELECTION OF BALOCHISTAN NATIONAL PARTY  
(AWAMI) BY MIR. ASADULLAH BALOCH

In Ref: APPLICATION REGARDING INTRA PARTY ELECTION  
CERTIFICATE SUBMITTED BY MIR ISRARULLAH  
ZEHRİ/PARTY DISPUTE OF BALOCHISTAN PARTY  
(AWAMI) BY MIR ISRARULLAH ZEHRİ

1. Mir Israrullah Khan Zehri, Balochistan National Party  
(Awami), Jinnah Town Samungali Road, Quetta
2. Mir Asadullah Baloch Baloch, President, Balochistan  
National Party (Awami), Quetta

....Respondent

For Mir Israr Ullah : Mr. Shah Khawar, ASC a/w Mr.  
Naveed Anjum Mumtaz, Adv.

For Asadullah Baloch : Mr. Kamran Murtaza, ASC, Mr.  
Muhammad Hassan Baloch,  
Adv. Mr. Ghulam Muhammad  
Khan, AHC, Mr. Saeed Faiz,  
Advocate

Date of Hearing : 17.07.2023

ORDER

Mr. Nisar Ahmed Durrani, Member. – Petitioner, Mir  
Israrullah Zehri has submitted titled application, wherein he  
has called in question the Intra Party Election of the party



with the prayer that certificate and documents in respect of Intra Party Election of the party furnished by Asadullah Baloch are fake, which may be rejected.

2. Shortly, the facts giving rise to instant matter are that Intra Party Elections of the party were due on 22.10.2022. A soft reminder dated 08.06.2022 was issued to respondents' party for conduct of intra party election. Due to non compliance of sections 208 and 209 of the Elections Act, 2017 read with rule 158 of Elections Rules, 2017, a Show Cause Notice was issued to respondents' party on 7.11.2022 which was addressed to Mir Israrullah Khan Zehri on given address of the office of party. In response thereof, Mir Israrullah Khan furnished his reply to the Show Cause on 01.12.2022. Ultimately due to non compliance of relevant provisions of law, matter was fixed for hearing. On 14.02.2023, a representative of party appeared and submitted an application seeking therein time for conduct of election which was allowed vide order dated 14.02.2023. Consequently, on 15.03.2023, documents qua Intra Party Election of party were submitted, signed by Mir Israrullah. In the meanwhile, during the pendency of matter before us, Asadullah Baloch also furnished the documents qua Intra Party election of the party on 21.02.2023 stating that election has been conducted on 18<sup>th</sup> & 19<sup>th</sup> February, 2023 whereby Asadullah Baloch has been elected as new

-sd-



President of the party. Hence the instant petition by Mir Israrullah Zehri.

3. Learned counsel for petitioner, in the given background, argued that in pursuance of Show Cause Notice dated 07.11.2022 issued by the Election Commission of Pakistan to Mir Isaraullah Khan Zehri, President, Balochistan National Party, replied to show Cause Notice in writing and also made a written request for extension of time for conduct of election of the party. That the request so made by Mir Israrullah was allowed by the Election Commission vide order dated 14.02.2022 on assurance that some development has taken place and rest of task will be completed within shortest time. That, thereafter five members committee was constituted, giving them a task to go in every zone/district for conduct of election of the party. That the committee completed the task and resolved to conduct the election on 06.03.2023. That finally Intra Party election were conducted successfully as per given schedule on 06.03.2023 in accordance with law, rules and also according to party constitution. That report was submitted on 13.03.2023 in the office of ECP and subsequently a report along with annexures was also submitted, containing the detail of names of newly elected office bearers of the party. He referred the Notifications of successful candidates and their affidavits. He contended that Mr. Asadullah Baloch, was called for meeting of Central Committee but he

-Sd-



absented himself. Carrying forward his arguments he urged that Mir Israr Ullah Khan Zehri is the President of the party since enlistment of the party with ECP. He vociferously contended that as per constitution of the party, a General Secretary of the party cannot call a meeting of party without prior approval of the President of the party. He emphasized that meeting of the party has been called by Secretary General even without any intimation to the President/Party Leader. He emphatically contended that when the meeting of the party was called illegally and contrary to provision of constitution, then thereafter, the entire process of election was illegal and bogus by itself. He further urged that a person who has furnished the documents of the alleged Intra Party election was also not the authorized person by the Head of the Party. In support of his contention and while defining the "Head of the Party", he referred section 202 of the Elections Act, 2017 read with rules 156 & 158 of Elections Rules, 2017. He prayed that alleged election of the party was neither in accordance with party constitution and nor in accordance with the provisions of Elections Act, 2017, therefore, fake documents and certificate submitted by Asadullah Baloch may be rejected in the interest of justice.

4. On the other hand learned counsel for respondent while chalking out the arguments of learned counsel for the respondent contended that previous election was conducted in 2017 and its legal life, as per party constitution



completed in 2022, after completion of tenure of five years given in the party constitution. He also referred proviso of section 208 (1) of the Elections Act, 2017. That after Show Cause Notice which infact was issued to the party and not to Mir Israrullah, party had to conduct the party election to avoid the consequences of section 215 of the Elections Act, 2017. That for conduct of election, the meeting of Central Committee was scheduled and called on 15.02.2023 at Karachi with the consultation and consent of ex-President of the party. He contended that even otherwise meeting of the party can be called with the majority of the Central Committee. That when members of the committee reached at Karachi as per schedule, they all were astonished to know on social media that a meeting has been conducted on 13.02.2023 by the x-President (Mir Israrullah) of the party wherein only 5 members were in attendance. He heavily emphasized that no one was issued any notice or even intimated in any manner for alleged meeting. He further urged that in absence of names of the Cabinet on record, how Members were elected. That such process speaks volumes that alleged election was not conducted in accordance with party constitution.

5. Mr. Ghulam Muhammad, learned counsel for respondent came forward and vociferously contended that out of 45 Members of Central Committee, 30 were left and out of those 30 members, 24 were affiliated with Asadullah



Balcoh and rest of 6 were with ex-president. He emphatically contended that after the completion of tenure of intra party, neither the President nor Secretary General of party were holding their previous status of President and Secretary General in the party. That the newly elected President being Head of the party, had to submit the certification as required under section 209 of the Elections Act, 2017 which was done so in same mode and manner. He contended that election was conducted in accordance with law and party constitution, therefore, documents and certificate furnished by Asadullah after due process of election, may be published on website.

6. We have heard the averments of both sides and perused the record. There is no denial that intra party election is a fundamental factor to explore the authenticity of democratization in political parties. That is why the legislatures have inserted certain provisions in the Elections Act, 2017 whereby it has been made mandatory for political parties for conduct of election of party in accordance with law & rules.

7. The petitioner in the instant matter, came up with the objection that election was not conducted in accordance with the provisions of law & rules and party constitution. The matter in hand is covered by section 208 of the Elections Act, 2017 which for reference is reproduced below:



**"208. Elections within a political party.—**(1) The office-bearers of a political party at the Federal, Provincial and local levels, wherever applicable, shall be elected periodically in accordance with the constitution of the political party:

Provided that a period, not exceeding five years, shall intervene between any two elections.

(2) A member of a political party shall, subject to the provisions of the constitution of the political party, be provided with an equal opportunity of contesting election for any political party office.

(3) All members of the political party at the Federal, Provincial and local levels shall constitute the electoral-college for election of the party general council at the respective levels.

(4) The political party shall publish the updated list of its central office-bearers and Executive Committee members, by whatever name called, on its website and send the list, and any subsequent change in it, to the Commission."

The language of above quoted provision of law is quite unambiguous, that a political party registered with the Election Commission of Pakistan is bound to conduct the election within a party (Intra party election) to elect office bearers of the party in accordance with the Constitution of the party. Under proviso of sub section (1), period of

-Sd-





election shall not exceed from five years. Sub Section (2) has categorically clinched the matter leaving no room for any other interpretation that all members of the party be provided equal opportunity to contest the election for any office subject to the relevant provision of the party Constitution.

8. As per constitution of the party, available on record, the duration of Intra Party election is five years. It reveals from record that previous election of the party was held on 20, 21 & 22 October, 2017. After completion of five years tenure, given in the constitution of party, election of the party was due on 22.10.2022. The party was bound under proviso of sub section (1) of Elections Act, 2017 as well as under party constitution, to conduct the election on or before 22.10.2022. It reveals that soft reminder dated 08.06.2022 was issued to respondents' party by the office for conduct of intra party election. Due to non compliance of mandatory provisions of law and rules, a Show Cause Notice was issued to respondents' party on 7.11.2022. Despite all efforts, party failed to conduct the election.

9. Indeed, time was granted vide order dated 14.02.2023 on written request of Mir Israrullah Zehri but on 21.02.2022 documents qua conduct of intra party election were submitted by Mir Asad Ullah Baloch through his authorized person namely, Ghulam Farooq. Now the decisive question before us for its determination is whether





the election was not conducted in accordance with law and party constitution as argued by learned counsel for the petitioner. The detail of alleged intra party election reveals that Asadullah Baloch, previously Secretary General of the party has been shown as an elected President of the party.

10. The first objection of learned counsel for petitioner on which he laid his great emphasize was that Asadullah Baloch, Secretary General of the party was not authorized in any manner to call the meeting of party without prior approval of President of the party. Powers and functions of Secretary General are given in (باب سوم) of party Constitution. Relevant provision is reproduced as under:

”سیکرٹری جنرل

1 سیکرٹری جنرل پارٹی کے تمام امور، ریکارڈ، دستاویزات اور فائلوں کے تحفظ اور ترتیب کا ذمہ دار ہوگا۔ سیکرٹری جنرل پارٹی پالیسیوں اور پروگرام کی تشریح و وضاحت کا ذمہ دار ہوگا۔ نیز تمام ذیلی تنظیموں سے رابطہ رکھے گا اور ان کی سرگرمیوں کی نگرانی کرے گا اور پارٹی چلانے کا ذمہ دار ہوگا۔

2

3

4 سیکرٹری جنرل صدر کے مشورے سے قومی مرکزی کمیٹی اور دیگر اداروں کے اجلاس طلب

کرے گا۔“

It is evident from above quoted provision of party constitution that the Secretary General will be responsible to run and supervise the functions of party. Section 4, of above quoted provision provides that Secretary General shall call the meeting with the consultation of President of the party.



11. It reveals from the record available before us that a letter was written to Mir Israrullah (President) on 16.02.2023 by Asadullah Baloch. To reach of just and fair conclusion said letter is reproduced as under:

"To

**Mir Israr Ullah Khan Zehri**  
President Balochistan National Party  
(Awami).

**Subject: Conducting of Intra Party Election**  
**as per Election Act 2017**

*It is to inform that Intra party election are mandatory required to be conducted under the Election Act 2017, and Election rules 2017.*

*But unfortunately the Intra Party Election could not be conducted under your presidency, Inspite of repeated verbal and written reminders, by the Central General Secretary of the Party. Meanwile, Election Commission of Pakistan wrote numerous letters for conducting the Intra Party Election. Moreover , to keep the above circumstances, I personally visited your kind honour and mutually discussed All party issues including Intra Party Elections, Finally, you fixed the date for meeting on 15-02-2023 at Karachi but unfortunately you did not attend the said meeting.*

*Further, the cabinet and central camittee of the party authorised me as a General Secetary to Chaire the meeting, Whare the party issues discussed in details*

-Sd-



*and date was fixed for Intra Party Election on 18-19 February 2023.*

*Since conduct of Intra Party Elections with in the party are mandatory, we are going to fullfil the legal obligation to conduct the intra party election on the given date and venue . Therefore your requested kindly make in convenient to attend the meeting on the above fix date and time.*

*It is for your kind information and further necessary action please.*

*Sd/-*

**Mir Asad Ullah Baloch**  
**General Secrtary Balochistan**  
**National Party (Awami) Balochistan"**

Language of above letter written by Mir Asad Ullah, clearly indicates that matter of Intra party election was discussed with Mir Israrullah Zehri wherein date of meeting of the party was fixed i.e. 15.02.2023 at Karachi and date of party election was fixed i.e. 18.02.2023 and 19.02.2023. It further reflects from the above referred letter that meeting was chaired by Asad Ullah Baloch due to absence of Mir Israr Ullh Zehri. It is striking feature of the matter that learned counsel for the petitioner has neither rebut this segment of argument of learned counsel for respondent and nor rebut the contents of aforementioned letter. In such view of the matter, it is difficult for us to believe that meeting of the party was convened, without consultation with Mir Israr Ullah (petitioner). Hence this objection of learned counsel is turned down having no weight.



12. The next objection of learned counsel for respondent was that a person who has furnished the documents of the alleged Intra Party election was not the authorized person by the Head of the Party. Certainly, rule 156 of Elections Rules, 2017 similarly guides and supports the version of learned for petitioner that documents, certificates etc shall be submitted to the Commission by the office bearer, duly authorized by the Party Head. Learned counsel for petitioner was questioned about the Head of Party. He straightaway answered that President is the Head of the party. Now the expressive question which falls for determination is whether as per constitution of the party, after completion of time of five years of intra party election, President would also remain President or his period can be extended till next Intra Party election of the party or otherwise. No such provision is forthcoming before us in the constitution of the party. In such view of the matter, claim of Mir Israr Ullah bears no weight that he is still President of the Party.

13. Without prejudice to the above, the Constitution of the party is also silent that in case of newly elected President of the party, other than ex-President, latter can exercise his powers qua submission of documents in the capacity of President as claimed by learned counsel. In such circumstances, we are of the considered view that in pursuance of rules 156 and 158 of the Elections Rules, 2017,

-Sd-



requisite documents are required to be submitted by the newly elected President of the party, having fresh mandate and not by the Ex-President of the party.

14. It reveals from the record that a letter dated 19.02.2023, addressed to Election Commission of Pakistan is signed by Mir Asad Ullah Baloch having, subject "SUBMISSION OF DOCUMENTS REGARDING INTRA PARTY ELECTION OF BALOCHISTAN NATIONAL PARTY (AWAMI). There is also an Authority Letter on record whereby Ghulam Farooq, CNIC 54400-9020037-3 is authorized by Mir Asad Ullah Baloch (newly elected President) for submission of documents of Intra Party election. Thus it can safely be concluded that documents were submitted by the President/Head of the party through duly authorized person namely Ghulam Farooq.

15. We have also minutely gone through the paper book submitted by learned counsel for the respondent containing the list of contesting candidates, appointment of Election Committee, Cards of Central Council Members etc. However, we do not find any illegality or irregularity committed during Intra Party election. Learned counsel for the petitioner has also not been able to convince us about the fakeness of documents.

16. Consequently, for what has been discussed above, instant application is rejected. Office is directed to publish the documents on website furnished by Mir Asadullah

Sd/-



Baloch as required under section 209 (3) of the Elections Act, 2017.

17. On acceptance of documents submitted by Mir Asadullah Baloch, in the above manner, status of documents furnished by Mir Israr Ullah Zehri becomes infructuous by itself.



(Nisar Ahmed Durrani)

Member



(Babar Hassan Bharwana)

Member



(Justice (R) Ikram Ullah Khan)

Member

Islamabad  
The 17<sup>th</sup> July, 2023

