

## ELECTION COMMISSION OF PAKISTAN

\*\*\*\*\*

MR. SIKANDAR SULTAN RAJA, CHAIRMAN  
MR. NISAR AHMED DURRANI, MEMBER  
MR. BABAR HASSAN BHARWANA, MEMBER

### CASE No.F.6(2)-2025-Law (III)

Subject: ELECTION PETITION UNDER SECTION 4,8 & 9  
ALONG WITH ALL OTHER PROISION OF THE  
ELECTION ACT, 2017, ELECTION RULES READ WITH  
CONSTITUTIONAL PROVISION OF CONSTITUTION  
OF ISLAMIC REPUBLIC OF PAKISTAN-1973 FOR  
ISSUING APPROPRIATE ORDER FOR RE-POLL OF  
PB-45, QUETTA-VIII AND DECLARING THE  
ELECTION HELD ON 15 POLLING STATIONS ON  
JANUARY 05,2025, NULL & VOID.

Mr. Nasrullah Khan Bareach, Contesting Candidate in the General Elections 2024 from  
PB-45, Quetta-VIII, Balochitan.

.....Petitioner(s)

### Versus

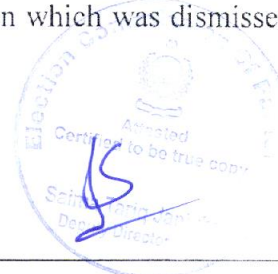
1. The Returning Officer, PB-45, Quetta-VIII
2. The District Returning Officer, PB-45 Quetta-VIII
3. Ali Madad, Returned Candidate, PB-45, Quetta-VIII Balochistan, R/o Jattak Stop,  
Eastern Bypass, Quetta.

.....Respondent(s)

For the Petitioner : Nemo  
For the respondent No.1 : In person  
For the respondent No.2 : In person  
For the respondent No.3 : In person alongwith Ch. Hassan Murtaza Mann,  
AHC  
Date of hearing : 22-01-2025

### ORDER

**Sikandar Sultan Raja, Chairman-** Brief background of the case is that  
the election was held in the Constituency PB-45 Quetta-VIII on 08.02.2024 and the said  
election was challenged before the Election Commission of Pakistan by the Petitioner  
namely Mir Muhammad Usman Pirkani by filing a petition which was dismissed by the



Commission on 26.02.2024 with the directions to approach the Tribunal for re-dressal of grievances. The Petitioner filed an election petition No. 15 of 2024 before the Election Tribunal Baluchistan. The Election Tribunal while passing the judgment dated 16.09.2024 directed for re-poll on 15 polling stations of the Constituency. The judgment passed by the Election Tribunal was challenged by Ali Madad Runner-up candidate before the august Supreme Court of Pakistan in Civil Petition No. 1349/2024 which was dismissed by the august Court through order dated 20.11.2024. Thereafter, the Commission issued schedule for conduct of re-poll at 15 Polling Stations of the Constituency and appointed DRO and RO the date for re-poll was fixed as 05.01.2025 and on the said date re-poll was held on 15 Polling Stations after the re-poll Form-47 was issued by the RO whereby Respondent No. 3 (Ali Madad) has been declared as Returned Candidate and the Petitioner secured 4,122/- votes as runner-up candidate. Thereafter, on 15<sup>th</sup> January, 2025 Petitioner filed the subject petition under Section 4, 8 & 9 of the Elections Act, 2017 with the prayer to order of re-poll of PB-45 Quetta-VIII and declare the Petitioner as runner-up candidate.

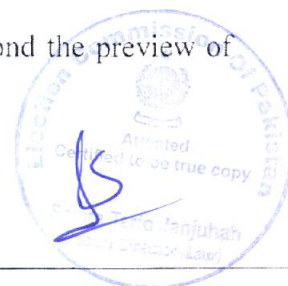
02. Upon receipt of the said petition another similar matter filed by 2<sup>nd</sup> runner up candidate namely Mir Muhammad Usman Pirkani was fixed for hearing on 21.01.2024 regarding similar Constituency. The Respondent No. 3 accepted the notice and petition waved of the right of notices upon the request of the parties matter was adjourned to 22.01.2025 at 01:30 P.M for replay and further proceeding.

03. The counsel for the Petitioner was in attendance on 21.01.2025 and also requested for adjournment. Matter was adjourned upon his request but no one appeared on behalf of counsel for the Petitioner on 22.01.2025. An application for adjournment was moved on 22.01.2025 at 05:00 P.M after office hours after the order has been heard and reserved by the Commission. Therefore the same is not acceptable and matter is being decided on the basis of available record.



04. The Petitioner submitted in his petition that an application was submitted to the RO with subject (*Request for taking action against the presiding officer of Polling Station No, 2, 27, 33 & 43*) on 05.01.2025 against the Presiding Officer but no action till date taken against the accused officer by the RO. He stated that in the voter's lists issued in the elections held on 05.01.2025 more than 2500 names of the eligible voters were excluded and new names were allegedly inserted in the voters lists in 08 (Eight) Polling Stations. He further stated that at the time of Polling it came into the knowledge of the Petitioner that the Respondents No. 1 & 2 has changed the final voter lists without any reasoned order. He stated referred Form-47 & votes secured by the Returned and Runner-up Candidates. He argued that the Returning Officer according to relevant laws and rules is bound to issue the Form-49 in the presence of the contesting candidate or his authorized election agent but the same was performed in the absence of the Petitioner which is illegal and void. He further mentioned that the official Respondents had committed pre and post-election rigging, primarily pre-election rigging, based on the voter list available to the petitioner. However, it is mentioned in the petition that the official respondents produced a different voter list, which altered the outcome, effectively robbing the mandate of general public. In conclusion, he prayed that the disputed election held on January 5, 2025, in PB-45, Quetta-VIII and operation of the already published/issued Form-49 of PB-45, Quetta-VIII, may be declared by this Commission as null and void and a fresh, fair and transparent re-election on the 15 Polling Stations may kindly be re-schedule/ conducted in the best interest of justice.

05. The Counsel for the Respondent No. 3 i.e Ali Madad Jatak submitted his reply which is taken on record. He argued that the petition is not maintainable as the Petitioner has not arrayed the entire Contesting Candidates as a party in the subject petition. He further argued that the petition filed by the Petitioner do not meet the evidential criteria provided under the Elections Act, 2017 and is beyond the preview of



Section 4, 8 and 9 of the Elections Act, 2017. He also stated that the Petitioner did not point out any grave illegality or irregularity which has materially affected the result of the Constituency. He further contended that the petition does not fulfill the criteria provided under Section 9 of the Elections Act, 2017. He further argued that the Petitioner did not provide any evidence in support of his allegations of the corrupt practices. He mentioned that the allegations leveled in the petition cannot be disposed of in a summary manner and requires recording of pro and contra evidence for which the Commission lacks the jurisdiction to decide the titled petition. He further mentioned that notice was issued and was pasted on the notice board to all the Contesting Candidates for the process of consolidation and more than 14 candidates participated in the process. Therefore, in view of the above mentioned grounds he prayed that the petition may be rejected/ dismissed.

06. The Returning Officer appeared and submitted its comprehensive report whereby he has denied the allegation leveled by the Petitioner in petition. He mentioned in the report that the re-poll in 15 Polling Stations of PB-45 Quetta-VIII was held in free fair and transparent manner without any illegalities and irregularities and in accordance with law. He also mentioned that the Petitioner submitted no application regarding complaint against the Presiding Officer of the Polling Stations. He stated that at Polling Station No. 27 the Petitioner moved an application whereby he alleged that the Presiding Officer was stopping the voters for casting their votes which was resolved at that time. He further denied the allegations in respect of change in the electoral roll of the Polling Stations.

07. Arguments heard and record perused.

08. From the perusal of the record it is revealed that the petition has been filed with the following prayer:-



*In the light of foregoing facts and circumstances the Petitioner well humbly prayed as under*

- A. *To issue directions to Respondent No. 1 & 2 to declare the result of the Returned Candidate Respondent No. 3 (Ali Madad) as null and void and also pass the directions to stop the operation of already published Form-49 of PB-45 Quetta-VIII.*
- B. *It is most humbly prayed that the disputed election held on 05.01.2025 in PB-45 Quetta-VIII may kindly be declare null and void and a fresh, fair and transparent re-election on the 15 Polling Stations may kindly be re-schedule/ conducted in the best interest of justice.*
- C. *To pass directions to hold an impartial inquiry against the flagrant rigging by considering the complaints provided by the Petitioner*
- D. *Any other relief (ves), which deem fit by the Hon'ble Court under the circumstances of this petition and cost of the petition is awarded to the Petitioner.*

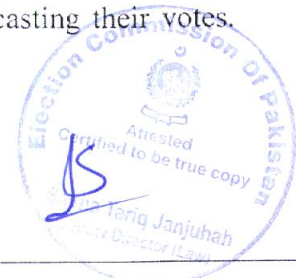
09. It is evident from the record that the process of re-poll was held on 05.01.2025 and notification of the returned candidate was issued on 08.01.2025. The Petitioner has obtained 4,122/- votes whereby the Respondent No. 1 being a Returned Candidate has obtained 6,883/- votes. The subject petition was moved on 15.01.2025 at that time, the process of consolidation and issuance of Form-49 final consolidation of the result was completed. The Petitioner has requested for declaring the poll void on the basis of two grounds the first ground is that the Returning Officer and Presiding Officers have committed malpractice and rigging in favor of the Respondent and the second allegation is that the voters list were changed by the RO and Presiding Officers in order to favor the Respondent for his victory. The report from the RO was obtained by the Commission whereby he denied the allegations leveled by the Petitioner in respect of change in the voters list. He in addition to it submitted that no complaint was filed before him against the Presiding Officers of Polling Station No. 2, 33 & 43 and the only application which was moved before him was in respect of Polling Station No. 27 whereby it is alleged that the voters are being stopped from casting their votes. He stated that he visited the Polling Stations and the voters were casting their votes in a peaceful manner without any hindrance. It is also evident from the record that the re-poll was conducted at 15 Polling Stations on the basis of Electoral Roll, which were already used in General Elections



20204. The pictorial copy of the Electoral Roll was provided by NADRA for the said re-poll on 15 Polling Stations, the RO confirmed that the non pictorial Electoral Rolls used in General Elections 2024 and the pictorial copy of Electoral Rolls provided by the NADRA for the said re-poll are checked and both are same. It is also observed that complaint cell was established by the Commission and no application was received by the Commission in this respect from the Petitioner. The RO has also confirmed that his office did not receive any application regarding provisions of Electoral Rolls from any Candidate during the said re-poll on 15 Polling Stations, the applicant has also issued a statement in Dawn newspaper on 07.01.2025 whereby he has alleged that 5000/- voters have been excluded while in the subject petition he has given contradictory statement and mentioned 2500/- votes. Petitioner has attached an application whereby he has mentioned discrepancies of only 7 names in voters lists book No. 451200586. The said book number has been checked and found that the entries are correct and there is no change in the voter list provided to the Polling Staff and available with the Returning Officer and the Election Commission of Pakistan, the Petitioner did not attach the screenshot of the messages which he is alleging that the names are different while texting at 8300.

10. Section 39 of the Elections Act, 2017 bars any revision correction or transfer of the vote when the constituency is called upon for election the voter lists are freezed and no entry can be made in the voter list either by the Returning Officer or by the Presiding Officer. The Petitioner did not attached material evidence with his petition in respect of discrepancies in the voter lists. He has raised generic allegations without supporting any evidence.

11. Section 9 of the Elections Act, 2017 provides that the Commission can declare a poll void by reason of grave illegalities or irregularities which have materially affected the result of the poll at one or more Polling Stations or in the whole Constituency including implementation of an agreement restraining women from casting their votes.




There are 3 basic requirements provided under the said Section for declaring the poll void, the first requirement is grave illegalities, secondly violation of the provisions of this Act and Rules and thirdly materially affected the result or agreement to restraining the women for casting their votes. It is also provided that the satisfaction of the Commission is required if it is apparent on the face of record or after inquiry as it may deem necessary, the poll, at one or more Polling Stations can be declared void by the Commission. In the present case the Petitioner has raised certain allegations regarding manipulation of results by the RO and DRO at 15 Polling Stations, non-compliance of provisions of Section 92 of the Elections Act, 2017 and commission of corrupt practices by the Respondent. However, no material evidence has been provided by the Petitioner in support of his allegations leveled by him in the said petition. Furthermore, the matter requires recording of pro and contra evidence which cannot be done in a summary manner by the Commission.

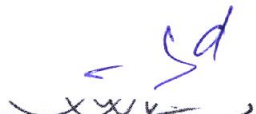
sd  
11. Section 140 of the Elections Act, 2017 empowers the Commission to appoint Election Tribunals for the trial and disposal of Election Petitions. The procedure for filing and trial of the Election Petitions is provided in Chapter-IX of the Elections Act, 2017 in form of "**Election Disputes**". Furthermore, Chapter-X deals with the offences of corrupt and illegal practices including tempering with papers and violation of official duty in connection with election Section 190 of the said Chapter provides that the offences under this Chapter shall be tried by the Session Judge and any person aggrieved may within 30 days passing of the final order file an appeal against the order in High Court which shall be heard by the Divisional Bench of the High Court. It is further mentioned that the proceedings against a person for being involved in corrupt and illegal practices may be initiated on a complaint made **by a person or by the Commission**. In both the above mentioned provisions of the Act, 2017 both the forums i.e Election Tribunal and the Session Judge are required to decide the matter after recording of pro




and contra evidences of the witnesses and the parties and a free perusal of documentary evidence provided by the parties. The Election Tribunal has been appointed by the Commission and the Petitioner was at the liberty to approach the Election Tribunal for redressal of his grievances. Furthermore, a complaint of the corrupt practices may also be filed before the Session Judge as mentioned under the Section 190 of the Elections Act, 2017. Furthermore, it is also observed by the record and the reports submitted by the RO and DRO that a notice dated 05.01.2025 was issued to all the contesting candidates for consolidation of the result. The notice has been attached by the RO along with his report.

12. In view of the above discussion it is observed that the process of consolidation has been completed and notification of the Returned Candidate has been issued on 08.01.2025. Factual controversies involve in the matter regarding Forms and other issues which have been raised by the Petitioner in his petition. These controversies cannot be resolved without proper procedure of evidence provided under the Elections Act, 2017 which is the mandate of the Election Tribunals presently functional. Therefore, the subject petition is dismissed with the observations that the Petitioner may approach to the Election Tribunal for re-dressal of his grievances, if so desire.

  
**Sikandar Sultan Raja**  
 Chairman

  
**Nisar Ahmed Durrani**  
 Member

  
**Babar Hassan Bharwana**  
 Member

