

BEFORE THE ELECTION COMMISSION OF PAKISTAN

PRESENT:

MR. NISAR AHMED DURRANI, MEMBER
MR. SHAH MOHAMMAD JATOI, MEMBER
MR. JUSTICE (R) IKRAM ULLAH KHAN, MEMBER

Case No. 12 (NA-175/2024-PF-I)

Case No. 6 (30)/2024-Law-III

Case No. 6 (29)/2024-Law-III

Case No. 6 (8)/2025-Law-III

ON COMMISSION'S NOTICE:

In Ref: ON COMMISSION'S NOTICE UNDER SECTION 137 OF THE ELECTIONS ACT, 2017 REGARDING ASSETS AND LIABILITIES FOR THE YEAR OF 2023 -2024 AGAINST JAMSHED AHMED DASTI, MNA, NA-175, MUZAFFARGARH

AND

In Ref: PETITION UNDER SECTIONS 4, 8, 15 OF THE ELECTIONS ACT, 2017 FILED BY AMEET AKBAR KHAN VERSUS JAMSHED AHMED DASTI, MNA, NA-175, MUZAFFARGARH

In Ref: APPLICATION UNDER ARTICLE 62 & 63 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN FOR DISQUALIFICATION AGAINST JAMSHED AHMED DASTI, MNA, NA-175, MUZAFFARGARH

In Ref: PETITION UNDER SECTION 4,9 AND 15 OF THE ELECTIONS ACT, 2017

In ref: REFERENCE FOR DISQUALIFICATION OF MR. JAMSHED AHMED, MEMBER NATIONAL ASSEMBLY FILED BY MR. AMEER AKBAR UNDER CLAUSE (2) OF ARTICLE 63 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN.

1) Jamshed Ahmed Dasti, MNA, NA-175, Muzaffargarh

Case No. 12 (NA-175/2024-PF-I)

(On Commission's Notice)

....Respondent

2) Ameer Akbar s/o Ellahi Baksh, Muzaffargarh

(In Case No. 6 (30)/2024-Law-III)

3) Zulfiqar Hussain Dogar s/o Muhammad Shafi Dogar,
Muzaffargarh

In Case No. 6 (29)/2024-Law-III

4) Sardr Faiz-ul-Hassan s/o Abid Hussain Sajid, Muzaffargarh

In Case No. 6 (8)/2025-Law-III

...Petitioners

VERSUS

Jamshaid Ahmed s/o Sultan Mehmood, MNA, NA-175,
Muzaffargarh *(in all petitions)*



...Respondent

Petitioner No. 2 : In person a/w Barrister Zafarullah Khan
 Petitioner No. 3 : In person a/w Ch. M Amjad, Adv.
 For the Petitioner No. 4 : Barrister Zafarullah Khan
 Respondent : In person a/w Mr. Basir Khan Sukhani, ASC
 For (PF) Wing of ECP : Mr. Zafar Masood, ADG (PF) a/w Mr. Musaddaq Anwar, DD (Confid.)
 For Law Branch of ECP : Mr. Yasir Ali Raja, Director (Law)
 Date of Hearing : 20.05.2025

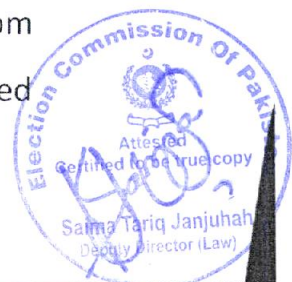
ORDER

Mr. Nisar Ahmed Durrani, Member.— This single order shall decide the above titled petitions as well as reference sent by the learned Speaker National Assembly under Article 62 (2) of the Constitution of Islamic Republic of Pakistan, 1973 being identical in nature.

2. Through titled petitions, petitioners namely Ameer Akbar, Zulfiqar Hussain Dogar and Sardar Fiaz-ul-Hassan seek disqualification of respondent namely Jamshed Ahmed s/o Sultan Mehmood, Member National Assembly NA-175, Muzaffargarh-I on the grounds mentioned in their petitions .

3. Disqualification of respondent has been sought mainly on two grounds, firstly that respondent has dishonestly and knowingly concealed his assets at the time of filing of his nomination papers. Secondly, that respondent has written his qualification as "FA" in his nomination papers but his certificate of "FA" has been declared as Bogus by the Board of Intermediate and Secondary Education Bahawalpur.

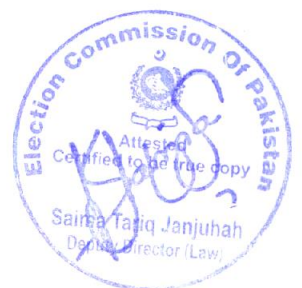
4. Apart from above, a reference has also been received from the learned Speaker National Assembly vide letter dated



20.03.2025 against the respondent on somewhat similar grounds with the following *inter alia* observations:

"3. After giving careful and detailed consideration to all the allegations contained in the Petition and the documents attached therewith and perusal thereof reveal of following material facts regarding the Reference:-

- (1) Reliance has been made by the petitioner on letter dated 4-10-2019 issued by the Islamia University Bahawalpur regarding unfair means of the Respondent. This document reveals that his intermediate certificate was declared bogus by the Board of Intermediate and Secondary Education Bahawalpur. Consequently, the result of BA First Annual Examination 2017 of Respondent under roll No.23966 was quashed / withdrawn by the Syndicate of the Islamia University Bahawalpur vide letter dated 12-08-2021.
- (2) The allegations in the reference prima facie reveals that the Respondent concealed, misrepresented facts relating to his qualification, occupation, assets, in the nomination papers filed for General Elections 2024, therefore, apparently the Respondent failed to meet the constitutional



requirements of being sagacious, righteous, non-profligate, honest and "Ameen" as mandated under Article 62 (1) (f) of the Constitution.

4. In my opinion, a question has arisen of the disqualification of the Respondent in terms of clause (2) of Article 63 of the Constitution. I, therefore, hereby decide to refer this to the Election Commission of Pakistan."

5. Barrister Zafarullah Khan, learned counsel for the petitioner No. 2 advanced his detailed arguments. Learned counsel placed his great emphasizes that respondent has declared his education qualification as "FA" in his nomination papers submitted before the Returning Officer for general elections 2023, which he did not possess. He emphasized that in previous General Elections respondent had mention his incorrect educational qualification as Graduate. He contended that BA Degree of respondent was quashed by the Controller of Examination vide order/decision dated 04.10.2019 on the ground that the intermediate certificate attached by the respondent with his admission form was declared as bogus by the Board of Intermediate and Secondary Education. That in pursuance of the order of Hon'ble High Court Bahawalpur Bench Bahawalpur passed in W.P. No. 7976/2019, the matter of BA degree of respondent was placed before the Syndicate and the Deputy Controller Examination. That Syndicate in its 75th meeting held on 02.01.2021 after detailed deliberation approved to quash the BA Degree of respondent and consequently vide Notification

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dated 12.08.2021 by the Islamia University Bahawalpur the degree was cancelled. He emphasized that respondent has continuously mentioned his fake and incorrect educational qualification in his nomination papers that too on Oath, which he does not possess. He urged that such continuous miss declaration on Oath attracts the consequences of disqualification of respondent.

sd- 6. On the other hand, learned counsel for the respondents also advanced his detailed arguments. However, at the end of detailed arguments, respondent himself turned up and he candidly stated that he has mentioned his correct qualification in his nomination papers submitted before the Returning Officer to contest the general election 2024. In support of his arguments, he placed on record the SSC certificate bearing Serial No. 0813483 under Roll No. 820159, Annual Examination 2005 dated 16.01.2019 passed from Board of Secondary Education Karachi. Similarly, he placed on record HSC Certificate Part-I & II Intermediate Examination (Annual-2020) having Serial No. 693592, Roll No. 989607 dated 28.06.2021 passed from Board of Intermediate Education Karachi. He contended that he has mentioned his accurate FA qualification on the basis of genuine certificates of Karachi Board. He categorically stated that he has never sworn miss-declaration under oath with regard to his educational qualification in his nomination paper filed for general election 2023.

7. In rebuttal, learned counsel for the petitioners contended that according to his information, FA certificate of respondent has also been declared as fake by the Board of Karachi.

8. After hearing rival arguments, the SSC and Intermediate certificates furnished by the respondent were sent to concerned



Boards to ascertain their respective reports thereto. In compliance thereof, both the boards have sent their respective reports. The relevant portion of reports is as below:

"The report of the Board of Secondary Education Karachi dated 13.06.2025:

"With reference to your letter on the subject cited above received in this office with the direction to submit a separate comprehensive report containing the name of the candidate, father's name and CNIC Number under the **Roll No. 820159** mentioned in the Certificate.

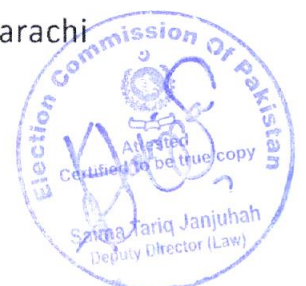
In this regard a comprehensive report as per the record / tabulation register of the Board of Secondary Education, Karachi is submitted as under:

Name of the candidate: JAMSHEED AHMAD
 Father's Name: SULTAN MAHMOOD
 Roll No: 820159
 Date of Birth: 15.02.1978

(Copy of the Tabulation Register is annexed herewith).

Forgoing in view, it is categorically stated that the certificate under reference was issued by the Board of Secondary Education, Karachi in favour of the candidate "**JAMSHEED AHMAD**" (Date of Birth 15.02.1978) as referred above whereas the person named in the ECP letter referred above i.e "**JAMSHAD AHMAD**" having **Date of Birth "01.01.1978"** does not exist in the record of Board of Secondary Education. Karachi."

The report of the Board of Intermediate Education Karachi dated 11.06.2025 is as below:



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"With reference to your letter on the subject cited above received in this office with the direction to submit a separate comprehensive report containing the name of candidate, father's name and CNIC Number under the Roll No. 989607 mentioned in the Certificate.

The comprehensive report as per the record / tabulation register of the Board of Intermediate Education, Karachi is submitted as under:

Name of the candidate: JAMSHEED AHMAD
 Father's Name: SULTAN MAHMOOD
 Roll No: 989607
 Class: XII HSC Annual
 Examination 2020
 Group: Humanities Group

(Copy of the Tabulation Register is annexed herewith).

Forgoing in view, it is categorically stated that the marks certificate under reference was issued by the Board of Intermediate Education, Karachi in favour of the candidate **"JAMSHEED AHMAD"** as referred above whereas the person named in the ECP letter referred above i.e **"JAMSHAIID AHMAD"** does not exist in the record of Board of Intermediate Education. Karachi."

It reveals from above reports that according to tabulation furnished along with reports by both the Boards, certificates of SSC and FA are issued in favour of **"JAMSHEED AHMAD"** s/o **"SULTAN MAHMOOD"** while according to CNIC of respondent available on record, the name of respondent is mentioned as **"JAMSHAIID AHMAD"** s/o **"SULTAN AHMAD"**. Similarly, according



to report of Board of Secondary Education, the date of birth of candidate is 15.02.1978, while according to CNIC of respondent, his date of birth of is mentioned as 01.01.1978.

9. Indeed, firstly there exists a difference of spelling in first name between the certificates submitted by respondent as well as reports submitted thereto by the Boards and CNIC of respondent available on record. Secondly, there also appears a few days difference in date of birth in SSC certificate and the date of birth mentioned on CNIC of respondent.

10. Certainly, keeping in view the reports of both Boards, said discrepancies raise serious questions but it is a matter of further investigation to prove the stance of learned counsel that certificates have been obtained by falsifying academic record or otherwise. However, these discrepancies are not direct indicator to believe at this stage that certificates are fake or bogus as urged by the learned counsel.

11. Second ground for seeking disqualification, argued by learned counsel is nondisclosure of property by respondent measuring 194 Kanal, 19 Marla, situated at Mauza Jaisanwain, Tehsil and distt. Muzaffargarh in his nomination papers submitted to contest general election 2024. It was contended by the learned counsel for petitioner No. 2 that agreement to sell dated 16.11.20221 was entered between respondent Jamshid Dasti and seller namely Mian Zahoor Ahmed. He added that through said agreement an amount of Rs. 4, 75, 49,012/- was paid by the respondent to seller. It was contended that respondent has filed a Civil Suit for specific performance in this regard before the Senior Civil Judge Muzaffargarh for issuance of decree in his favour. He



further added that respondent has deliberately withdrawn the Civil Suit, soon after filing of titled petitions to evade consequences of his disqualification.

12. On the other hand, learned counsel for the respondent denied the agreement to sell referred by learned counsel for the petitioners. He contended that Civil Suit was never filed by the respondent and as and when the matter of filing of Civil Suit came into notice of respondent, he immediately withdrew the same. He further contended that Civil Suit was illegally filed by one Mr. Shakir Hussain Advocate, without bringing it into the notice of respondent. He added that a written complaint dated 08.01.2025 has been filed before the Chairman, District Bar Association, Muzaffargarh against Shakir Hussain Jakhani, Advocate for taking appropriate legal action against him.

13. In view of arguments advanced from both sides, the decisive questions which fall for determination are whether alleged Civil Suit has been filed without bringing into the notice of respondent; whether respondent remained unaware about the proceedings of Civil Suit during its pendency. Record reveals that alleged Civil Suit has been filed through Mr. Shakir Hussain Khan Sukhani, AHC on 11.08.2022 on the basis of "Iqrarnama/agreement to sell" dated 16.11.2021. It is also matter of record that said Shakir Hussain Sukhani was previously authorized by the respondent vide Authority Letter dated 20.12.2023 for submission of his nomination papers for contesting general election 2024 and application dated 20.12.2023 for obtaining nomination papers for respondent was also filed before the learned RO through said Mr. Shakir Hussain. It is also undisputed that application dated



13.01.2024 for obtaining election symbol was also made through said counsel namely Shakir Hussain. It is striking feature that during the course of arguments, it was admitted by present learned counsel before us that Mr. Shakir Hussain Sukhani is his real brother.

14. Apart from above, it reveals from the record that alleged Civil Suit has been filed on 11.08.2022. It reveals from order sheet dated 07.11.2024 that respondent appeared in person on 07.11.2024 before the learned Civil Judge, got recorded his statement, which according to order sheet was recorded on separate sheet, for withdrawal of Civil Suit. It further reveals from order sheet dated 08.11.2024 of learned Trial Court that in the light of statement regarding withdrawal of Civil Suit, got record by the respondent, matter was dismissed as withdrawn vide order dated 08.11.2024.

15. It would not be out of context to mention here that petitioner, Ameer Akbar has filed titled petition on 07.11.2024. While, Zulfiqar Dogar has filed titled petition on 28.09.2024. Whereas withdrawal of Civil Suit on filing of titled petition raise serious questions for consideration.

16. It transpires from the record that Civil Suit remained subjudice for more than two years and it was fixed for hearing on 19 different dates. It also reveals from the memo of Civil Suit that it was instituted for specific performance with *inter alia* contentions that he is in possession of suit property measuring 194 Kanals and 19 marlas through agreement to sell/Iqrarnama dated 16.11.2021 and entire amount of Rs. 4,75,49,012/- in this regard has already paid by the respondent in presence of witness;



that due to certain issues regarding Apalo Textile Mills Limited and Banks, property could not be mutated at that time; That now the defendant in the suit is reluctant to transfer the property in the name of respondent. It reveals that vide order dated 14.10.2023, interim relief was also granted. The relevant part of said order is as below:

"...Admittedly, the possession of the suit property also lies with the plaintiff as per agreement to sell dated 16.11.2021. No document has been produced in rebuttal. In these circumstances, I am of the view that plaintiff has prima-facie good arguable case and balance of convenience lies in favour of the plaintiff. If instant application of temporary injunction is refused, it would cause irreparable loss to petitioner/ plaintiff. Hence, application u/o XXXIX rule 1 & 2 CPC for grant of temporary injunction is accepted and defendant is restrained from interfering into possession of the plaintiff till final decision of instant suit. However, these observations are tentative in nature and shall not affect on final decision of suit."

Sd-

17. In view of above discussion and circumstances, firstly, it is difficult to believe that Civil Suit was filed by Shakir Hussain Sukhani on behalf of respondent without bringing into his notice. Secondly, stance of respondent is also unbelievable that he remained unaware about proceedings of Civil Suit which remained subjudice for more than two years. It is also clear from the record that signatures of respondent, available on Civil Suit are similar when compared with signatures of respondent which were put on



Nomination Papers, Authority Letters and other relevant documents. Moreover, no any strict action has been taken by respondent against Shakir Hussain, Advocate at appropriate forum for filing fake Civil Suit except an application made to District Bar Council. Hence we have arrived at an irresistible conclusion that Civil Suit was genuinely filed and contested by the respondent through Shakir Hussain Sukhrani which was lateron withdrawn immediately on filing titled petitions most likely to evade consequences of his disqualification.

18. The agreement to sell is attested and reveals that it has been executed in presence of witnesses. It further reveals from the agreement that entire amount of Rs. 4,75,49,012/- has been paid by present respondent to the seller. It appears from the agreement to sell that possession of property has been handed over to respondent (Jamshed Ahmed Dasti). It is further mentioned therein that Jamshed Ahmed is the owner of property under consideration from day of agreement i.e. 16.11.2021. It has mutually been committed therein that both the parties shall play their role for execution of agreement arising out of the contract to finalize the mutation process.

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19. It is pre-requisite for a person while filing Civil Suit for specific performance to show that plaintiff is keen to perform his part of the contract, but other side is circumventing or evading the execution of his obligations arising out of the contract. In the titled matter, Civil Suit was filed by respondent through counsel on grounds that he is in possession of suit property measuring 194 Kanals and 19 marlas through agreement to sell/Iqrarnama dated 16.11.2021 and entire amount of Rs. 4,75,49,012/- in this regard



has already been paid by the respondent in presence of witness; that due to certain issues regarding Apalo Textile Mills Limited and Banks, property could not be mutated at that time; That now the defent in the suit is reluctant to transfer the property in the name of respondent.

20. It reveals from order sheets of learned Civil Court attached with the petition that respondent before us and plaintiff in Civil Suit has shown his an incessant readiness and willingness for claiming relief of specific performance for more than two years during pendency of suit but other side was circumventing the execution of his obligations arising out of the agreement.

21. For what has been discussed above we are of the considered view that it is a *prima facie* case to believe that above said property was in possession of respondent at the time of filing of his nomination papers but he has deliberately concealed the same in his nomination papers and as such furnished a false Affidavit attached therewith as argued by the learned counsel for petitioners.

22. It is pertinent to mention here that the august Supreme Court of Pakistan in the case titled as "Muhammad Salman vs. Naveed Anjum" and others reported as 2021 SCMR 1675 held that;

"Now, the Constitution itself confers a jurisdiction on the Commission with regard to the disqualification of member of the federal and provincial legislatures. This is contained in clause (2) and (3) of Article 63 (read, as appropriate, with Article 113), which provide as follows;



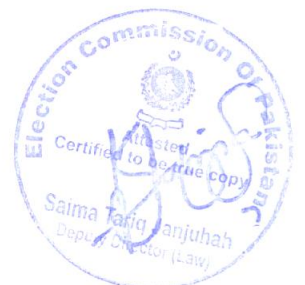
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“(2) If any question arises whether a member of Majlis-e-Shoora (Parliament) has become disqualified from being a member, the Speaker or, as the case may be, the Chairman shall, unless he decides that no such question has arisen, refer the question to the Election Commission within 30 days and should he fail to do so within the aforesaid period it shall be deemed to have been referred to the Election Commission.”

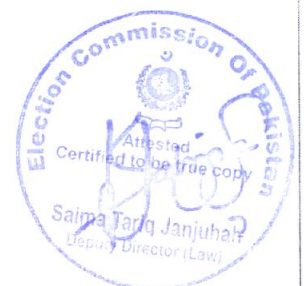
(3) The Election Commission shall decide the question within 90 days from its receipt are deemed to have been received and if it is of the opinion that the member has become disqualified, he shall cease of to be a member and his seat shall become vacant”

23. The August Supreme court in the case of “Imran Khan vs. Mian Muhammad Nawaz Sharif” reported in PLD 2017 SC 265 has held that the hierarchy for pre-election disqualification and post-election disqualification is provided in the Constitution and the Election laws. The Apex court while dealing with the question of qualification and disqualification of Member of the Parliament has observed as follows;

“.... The next question emerging for the consideration of this Court is what are the fora provided by the Constitution and the law to deal with the questions emerging from Articles 62(1)(f) and 63(2) of the Constitution. To answer this



question we will have to fall back upon Articles 62 and 63 of the Constitution. A careful reading of the said Articles would reveal that the one deals with qualifications of a person to be elected or chosen as a member of Parliament while the other deals with disqualifications of a person not only from being elected or chosen but also from being a member of Parliament. If a candidate is not qualified or is disqualified from being elected or chosen as a member of Parliament in terms of Articles 62 and 63 of the Constitution, his nomination could be rejected by the Returning Officer or any other forum functioning in the hierarchy. But where the returned candidate was not, on the nomination day, qualified for or disqualified from being elected or chosen as a member, his election could be declared void by the Election Tribunal constituted under Article 225 of the Constitution. While election of a member whose disqualification was overlooked, illegally condoned or went unquestioned on the nomination day before the Returning Officer or before the Election Tribunal, could still be challenged under Article 199(1)(b) (ii) or Article 184(3) of the Constitution of Pakistan, 1973 as was held in the cases of Lt. Col. Farzand Ali and others v. Province of West Pakistan through the Secretary, Department of Agriculture, Government



of West Pakistan, Lahore (PLD 1970 SC 98) and Syed Mehmood Akhtar Naqvi v. Federation of Pakistan through Secretary Law and others (PLD 2012 SC 1054). However, disqualifications envisaged by Article 62(1)(f) and Article 63(2) of the Constitution in view of words used therein have to be dealt with differently. In the former case the Returning Officer or any other fora in the hierarchy would not reject the nomination of a person from being elected as a member of Parliament unless a court of law has given a declaration that he is not sagacious, righteous, non-profligate, honest and ameen. Even the Election Tribunal, unless it itself proceeds to give the requisite declaration on the basis of the material before it, would not disqualify the returned candidate where no declaration, as mentioned above, has been given by a court of law. The expression a court of law has not been defined in Article 62 or any other provision of the Constitution but it essentially means a court of plenary jurisdiction, which has the power to record evidence and give a declaration on the basis of the evidence so recorded. Such a court would include a court exercising original, appellate or revisional jurisdiction in civil and criminal cases. But in any case a court or a forum lacking plenary jurisdiction cannot decide questions of this nature at least

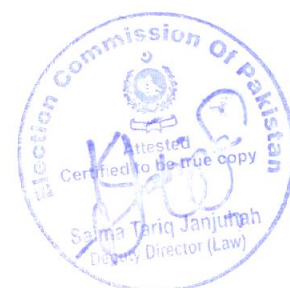
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when disputed. In the latter case when any question arises whether a member of Parliament has become disqualified it shall be dealt with only by the Election Commission on a reference from the Speaker of the Parliament in terms of Articles 63(2) and 63(3) of the Constitution. (Emphasis supplied). We would have sent this case to the Speaker in terms of 63(2) or the Election Commission in terms of Article 63(3) of the Constitution but we do not think a question of such nature has arisen in this case as respondent No. 1 has been alleged to be disqualified even on the nomination day on account of having failed to disclose his assets and those of his dependents."

24. The Election Commission is constitutionally competent to entertain reference received from the Speaker under Article 63(2) of the Constitution and adjudicate upon the same under Article 63(3) and to decide question of disqualification as and when raised and is not dependent upon time. The August Supreme Court in the case of "Mian Najeeb-ud-Din Owasi versus Amir Yar Waran" reported in PLD 2013 SC 482 has held as under;

sd - "We have no objection on the decision of ECP, falling under categories A and B. But as category C-H are concerned, we may observe that for declaring a person to be disqualified, no period of limitation, as pointed out, would be relevant because such disqualification, was suffered at the time when he



filed the nomination papers by making a declaration while having a fake degree in his hand, therefore, in such case no time period can be prescribed."

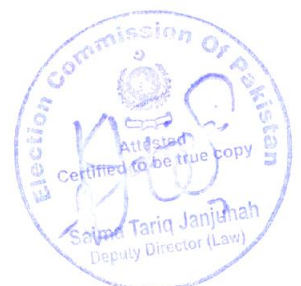
25. Now adverting towards allegations qua filing of incorrect assets and liabilities submitted by the respondent for the year 2023-2024 is concerned and to reach just and fair conclusion, section 137 of the Elections Act, 2017 is reproduced as under:

"137. Submission of statement of assets and liabilities.— (1) Every Member of an Assembly and Senate shall submit to the Commission, on or before 31st December each year, a copy of his statement of assets and liabilities including assets and liabilities of his spouse and dependent children as on the preceding thirtieth day of June on Form B.

(2).....

(3).....

(4) Where a Member submits the statement of assets and liabilities under this section which is found to be false in material particulars, he may, within one hundred and twenty days from the date submission of the statement, be proceeded against for committing the offence of corrupt practice."



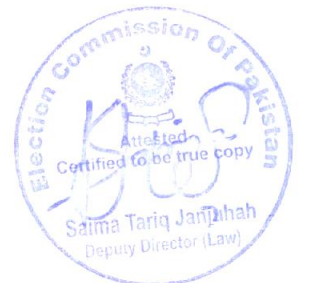
Plain reading of above provision of law, clearly provides that every Member of Assembly and Senate in compliance of above provision of law is required to furnish his own statement of assets and liabilities and his spouse and dependents on Form-B as on preceding day of 30th June. However, in case of filing of incorrect or false statements of assets and liabilities, in material particulars, he may, within one hundred and twenty days from the date of submission of the false statement be proceeded against for committing the offence of corrupt practice.

26. Certainly, record reveals that respondent being a Member National Assembly has furnished his statement of assets and liabilities on requisite Form-B on 14.01.2025. As discussed above, that on 30th June, 2024, said property under consideration was in possession of respondent which he has not mentioned in Form-B for the reasons best know to him. Thus, we are of the considered view that respondent has deliberately made false statement and incorrect declaration before the Returning Officer while filing his nomination papers on Form-D as well as before Election Commission of Pakistan on Form-B at the time of submission of his statement of assets and liabilities for the years 2023-2024.

27. Without any prejudice, according to our record, respondent has furnished a party ticket allegedly issued by Chairman Pakistan Tehreek-e-Insaf Nazriati along with an application dated 13.01.2024 to the Returning Officer for allocation of election symbol of said party. The application is as under:

"بخدمت جناب ریٹرننگ آفیسر صاحب حلقہ NA-175 مظفر گڑھ

درخواست برآمدالات کیلئے جانے انتخابی نشان لے لے باز



(سیاسی جماعت پاکستان تحریک انصاف نظریاتی)

جناب اعلیٰ!

مزارش ہے کہ من سائل کا تعلق پاکستان تحریک انصاف نظریاتی سے ہے اور حلقہ NA-175 کا امیدوار ہوں اور سیاسی جماعت پاکستان تحریک انصاف نظریاتی کے پلیٹ فارم سے الیکشن میں حصہ لے رہا ہے من سائل کو پارٹی ٹکٹ جاری ہو چکا ہے پارٹی ٹکٹ مع بیان حلفی لف ہے من سائل کو پاکستان تحریک انصاف نظریاتی کا انتخابی نشان بلے باز الاٹ کیا جائے۔

لہذا استدعا ہے کہ من سائل کو انتخابی نشان بلے باز الاٹ کیا جائے۔

مورخہ 13-01-2024

عرضے

جشد احمد ولد سلطان محمود امیدوار حلقہ NA-175 مظفر گڑھ

مذریعہ اتھارٹی / کونسل

Sd/-

شاہر حسین خان سکھانی ایڈووکیٹ ہائی کورٹ

ڈسٹرکٹ کورٹس مظفر گڑھ

رابطہ نمبر 0301-6969619 "

28. While on the other hand, the Chairman, PTI-N has sent a letter dated 12.01.2024 addressed to the Chief Election Commissioner and All Returning Officers whereby a list of those candidates is attached therewith to whom party has issued party tickets. However, from perusal of list, it reveals that name of respondent is not available therein.

29. According to our record, respondent remained as a Chairman of "Pakistan Awami Raj". It reveals from the record that he has tendered his resignation from the said party vide letter dated 15.12.2023 but there is nothing available on record either his resignation was accepted on the date of filing of his nomination papers i.e. 22.12.2023 or otherwise.

30. Irrespective of the legal proposition as to whether at the same time a person could become member of two district political



parties, but the declaration filed by the respondent was fake and as such it was not accepted by the concerned Returning Officer. There is nothing on record that respondent has challenged the same before any higher forum, meaning thereby, he admitted that the declaration was fake. In such state of affairs, such person, accounts for his conduct and could not be said having a good character enshrined in Article 62 (1) (d) of the Constitution.

31. The August Supreme Court in the "Worker party through Akhter Hussain, Advocate versus the Federation of Pakistan" PLD 2012 SC 681 has held that;

"..... Article 218(3) also empowers the Election Commission to ensure that the election process does not suffer from any corrupt and/or illegal practices. Sections 78, 79, 80, 80-A, 81 and 83 of ROPA comprehensively define the terms "corrupt practices" and "illegal practices". ROPA in sections 82, 99 and 100 further elaborates the consequences of such practices and enunciate that the same form a sufficient basis for the Election Commission to, inter alia, imprison, fine and disqualify those who violate them. These provisions, therefore, subsume all those impugned activities as cognizable by the Election Commission. Similarly, Section 103(a) of ROPA instructs the Election Commission to ensure a "fair election". In doing so it implies that "large scale malpractices including coercion, intimidation and pressures, prevailing at the election" would

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negate the 'fairness' elections are to embody. While sections 78, 79, 80, 80-A, 81 and 83 specify activities that the Election Commission can regulate and check under Article 218(3), section 103(a), substantially enhances this defined spectrum of cognizable activities and reinforces the obligation to check them. In section 103(c) section it empowers the Election Commission to issue instructions, exercise its powers and make orders to effectuate the said standard."

"... While there is no cavil with the proposition that the Election Commission stands as an independent and fully empowered constitutional body, the 18th and 20th Constitutional Amendments, have substantially enhanced the degree of independence and the scope of powers enjoyed by the Election Commission. Prior to 18th Constitutional Amendment, the Commission comprised the Chief Election Commissioner and two retired Judges as members thereof. Vide the 18th Amendment, the strength of the members has been increased from two to four, with the additional requirement that each of the members be a Judge of High Court of each Province, duly appointed by the President as per prescribed procedure provided for appointment of the Commissioner in clauses (2)(a) & (b) of Article 218(1) of the Constitution. The entrustment of



greater responsibility and the enhancement of its strength are part of an effort fully to equip the Commission to discharge its broad set of responsibilities. These also reflect a growing trust in the Commission to act independently and without influence in conducting and organizing elections "fairly, honestly, justly and in accordance with law". In the parliamentary system of government, a constitutionally independent and empowered Election Commission rests as one of the foundational stones of a democratic setup. In the past, the Election Commission has succumbed to external influence and failed to discharge its responsibilities successfully. The inadequacy of the Commission's effort in organizing and conducting the election to the above standards has had detrimental repercussions for the democratic system in Pakistan. Not only has it undermined the legitimacy of the elections and the claim of the winning party to form government, but has also, by disregarding express constitutional dictates regulating the same, devastated the trust and faith reposed by the citizenry in the rule of law and supremacy of the Constitution. This is why Pakistan has witnessed political parties, individual candidates, as well as the citizenry, reject and denounce some of the election results. The rigging of elections was cited



as a major ground for the imposition of martial law in the country in 1977, which was unfortunately validated by the Supreme Court. Consequently, an unconstitutional order was imposed on the people of Pakistan with the false hope of holding fair and free elections within 90 days. The solemn commitment made by General Ziaul Haq, Chief Martial Law Administrator, however, was never honoured and the people of Pakistan remained subject to an unconstitutional regime for nearly 11 years. In light of the powers and independence that the Election Commission enjoys today, such an unfortunate abuse of power and disregard of the constitutional dictate to establish and preserve democracy seems impossible."

".... It is of utmost importance that the Election Commission executes its functions and discharges its responsibilities effectively, efficiently and in letter and in spirit. By declaring that the representatives of the people "shall be elected by direct and free vote, in accordance with law" in Article 51(6)(a), the Constitution identifies 'elections' as the first and an integral step in effectuating the aforesaid constitutional dictates. At page 254 of the judgment given in the Al-Jehad Trust v. Federation of Pakistan (PLD 1997 SC 84), this Court commented on the important



role of the Election Commission and observed that by fulfilling its mandated duties and responsibilities, the Election Commission essentially "give(s) birth to a body/institution of the nation, called Parliament". The effective fulfilment and honest discharge of this tremendous responsibility would lend greater legitimacy to an elected democratic government and give effect to its constitutional mandate. It is, therefore, imperative that the Election Commission employs its extensive powers to regulate the election process. Any shortfall in the discharge of its responsibilities would violate express dictates of our Constitution; devastate the efficacy of our constitutional order and the envisioned operation of the State. Therefore, in appropriate circumstances, the Election Commission may be directed to fulfil its constitutional and legislative dictates by inter alia bringing all relevant political practices into conformity with the Constitution and the law'.

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32. The August Supreme Court in the case of "Nida Khuhro Versus Moazzam Ali Khan" reported in 2019 SCMR 1684 has held as under.

"....Section 137(4) of the Act provides that where a Member submits a Statement of assets and liabilities which is found to be false in material particulars, he may, within 120 days from the



date of submission of the statement be proceeded against for committing the offence of corrupt practice. While it is correct that the Returning Officer has been given the power to allow correction of mistakes, errors and omissions in the nomination papers within a specified time but in the instant case no attempt was made to correct such omission at any stage'.

"....In terms of section 137(4) of the Act reproduced above, submission of a statement of assets and liabilities, which is found to be false in material particulars constitutes corrupt practice. More importantly, the declarations given by Respondent No.1 under solemn affirmation as part of his nomination papers, and the affidavit submitted by him pursuant to the judgment of this Court in the case of Speaker, National Assembly ibid also exposes him to disqualification not only under the provisions of the Elections Act but also under the provisions of Article 62(1)(f) of the Constitution. By reason of making a false statement under oath, Respondent No.1 ceases to be qualified to be elected or chosen as a Member of Majlis-e-Shoora (Parliament) because he cannot be termed as righteous and honest. The false statement having been made in the nomination papers, in the statement of assets and in the affidavit exposes Respondent No.1 to

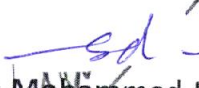



serious legal consequences under the law as well as the Constitution."

33. Resultantly, for what has been discussed above, we are of the considered opinion that respondent has become disqualified under Article 62 (1) (d) (f) and Article 63 (1) (p) of the Constitution of Islamic Republic of Pakistan, 1973 read with section 3, 4 and 8 (c), section 137, 167 and 173 of the Elections Act, 2017. Thus, reference is answered in positive as well as titled petitions are also accepted. The seat of respondent is declared as vacant forthwith, accordingly. It is pertinent to mention here that delay to decide the reference within stipulated time of ninety days has been caused due to frequent adjournments from both parties as well as to seek reports from Boards of Karachi.

34. Apart from above, as the respondent has made false statements and incorrect declaration, therefore he has also committed offence of corrupt practices defined under Section 167 and 173 of the Elections Act, 2017, punishable under Section 174 of the Elections Act, 2017. Office is directed to initiate legal proceedings and to take follow-up action under Section 190(2) of the Elections Act, 2017 and other relevant provisions of law.


(Nisar Ahmed Durrani)
Member


(Shah Mohammad Jatoi)
Member


(Justice (R) Ikram Ullah Khan)
Member

Islamabad
The 14th July, 2025

