

# ELECTION COMMISSION OF PAKISTAN

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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.2(3)/2024-Cord

Subject: APPLICATION FILED BY MR. ZULFIQAR ALI BHATTI AND GUIDANCE SOUGHT BY DRO REGARDING TERMINATION OF ELECTION PROCEEDINGS IN NA-83 SARGODHA-II AND NA-85 SARGODHA-IV UNDER SECTION 73 OF THE ELECTIONS ACT, 2017 BASED ON INQUIRY HELD BY ADDITIONAL DEPUTY COMMISSIONER (GENERAL) SARGODHA

### On Commission's Notice

1. Captain (R) Shoib Ali, DC/ DRO Sargodha	:	appeared in person
2. Dr. Zulfiqar Ali Bhatti, Candidate NA-85	:	appeared in person
3. Mr. Jehangir, Secretary Union Council No. 84 Sargodha	:	appeared in person
4. Mr. Abdul Salam S/o Sadiq Ali (Late)	:	Nemo
5. Mr. Hassan, Patwari Sargodha	:	appeared in person
6. Mr. Shamshad Ahmed, Lumber Dar Chak No 142/SB, Sargodha	:	appeared in person
7. Mufti Kifayat Ullah, Imam Masjid, Chak No. 142/SB, Sargodha	:	appeared in person
8. Mr. Shoaib Ali, RO NA-85	:	appeared in person
9. Mr. Riaz Qadeer Bhatti, RO, NA-83	:	appeared in person
10. Mr. Liaqat Ali Ex-General Councilor	:	appeared in person
11. Mr. Ali Hassan, Chowkidar, Sargodha	:	appeared in person
For the Election Commission	:	Special Secretary
Date of hearing	:	<u>22-01-2024</u>

### ORDER

**Sikandar Sultan Raja, Chairman-** Brief background of the instant matter is that RO NA-83 and RO NA-85 issued public notice on 19.01.2024 under Section 73 of the Elections Act, 2017 regarding termination of Election proceedings after the death of a Contesting Candidate Mr. Sadiq Ali on the report of his son Abdul Islam. Mr. Abdul Islam presented death certificate of Mr. Sadiq Ali (Late) which was issued by the Secretary, UC-84, Chak 113 Sargodha mentioning the date of death of deceased





15.01.2024. He also produced death certificate issued by NADRA showing the same date of death. Mr. Zulfiqar Ali Bhatti Contesting Candidate of NA-85 Sargodha-IV through an application informed the DRO that Mr. Sadiq Ali died on 02.01.2024 instead of 15.01.2024 and termination of election proceedings are based on fake/ bogus documents submitted by Mr. Abdul Salam S/o Mr. Sadiq Ali (Late). The Deputy Commissioner/DRO Sargodha constituted a committee and directed Additional Deputy Commissioner (General) Sargodha to conduct a fact finding inquiry in the matter and submit its report. The ADC (G) conducted the inquiry and recorded the statements of the family of the deceased, Lumberdar, Imam Masjid, Ex-General Councilor, Chowkidar, Local Residents and Secretary Union Council No. 84, Chak No.113/SB.

02. As per findings of the report of the inquiry, the "Death Registration Certificate" issued by Secretary Union Council No. 84, Chak No.113/SB, Sargodha is fake/ bogus wherein date of death of Mr. Sadiq Ali has been claimed as 15.01.2024, while real date of death of contesting candidate was 02.01.2024.

03. Provincial Election Commissioner Punjab Vide letter No.F.NA-83/2023-Elec. dated 20.01.24 alongwith its enclosures brought the matter into the notice of Election Commission. The Commission fixed the matter for hearing on 22-1-2024 with notices to above mentioned individuals.

04. Mr. Zulfiqar Ali Bhatti contesting candidate appeared in person and stated that he is contesting elections as candidate from NA-85 Sargodha-IV. He added that he came to know about the termination of General Elections-2024 for NA-85 Sargodha-IV due to the death of Mr. Sadiq Ali S/o Alaf Din contesting candidate from the same constituency through RO's notification dated 19.01.2024 wherein date of death was stated as 15.01.2024. He further argued that admittedly Mr. Sadiq Ali died on 02.01.2024 and his son has attended the funeral of Mr. Sadiq Ali. He added that an application was filed to the District Returning Officer (DRO) for inquiring into the matter. He submitted Abdul Salam, son of Mr. Sadiq Ali submitted fake documents in respect of death of his father and carried out the process of allotment of election symbol (Sheep) to his father at the time when he was dead. He further added that Mr. Sadiq Ali was on death bead since last 6 months and he never turned appearance before the Returning Officer even for the scrutiny of his nomination papers. He also pointed out that fake authority letter has been submitted to the Returning Officer for allocation of symbol on behalf of Mr. Sadiq Ali (Late). He further contended that 12.01.2024 was the date for withdrawal of candidature, however, the material facts were concealed from the Returning Officer by the son of Mr.





Sadiq Ali (Late) and he was declared as validly nominated candidate. He apprised the Commission that ADC(G) has conducted inquiry and it is evident that the Contesting Candidate Mr. Sadiq Ali (Late) died on 02.01.2024. He while concluding his arguments requested the Commission to resume the process of General Elections-2024 in the interest of justice and the order of RO for the termination of Election process may be set-aside.

05. District Returning Officer (DRO) Sargodha appeared and stated that as he received the application from Mr. Zulfiqar Ali Bhatti, he ordered for inquiry and appointed ADC (G) for this purpose. He also apprised the Commission that the statements of Wife and Daughters of Mr. Sadiq Ali (Late) have been recorded and according to them the date of death is 02.01.2024. He further added that ARO was appointed for the purpose of scrutiny of nomination papers of Mr. Sadiq Ali (late) as he was not in the position to come to the office of Returning Officer for the scrutiny of his nomination papers due to his serious illness.

06. Returning Officers of NA-83 and NA-85 appeared and stated that Mr. Abdul Salam S/o Mr. Sadiq Ali (Late) informed them that his father has died on 15.01.2024 and he has submitted the death certificate in this respect which was verified from the secretary union council who has confirmed that the same is signed stamped and issued by him. They further contended that after the confirmation from Secretary Union Council the process of Election was terminated under Section 73 of the Elections Act, 2017. However, they have submitted their written statements whereby they have confirmed that after the detailed inquiry verification and factual position that Mr. Sadiq Ali (Late) died on 02.01.2024. Both the Returning Officers have submitted their stance in written form which are placed on record.

07. Secretary union council Mr. Jehangir Ali stated that the Form-B was provided to him with the verification of Numberdar which is the procedure for verification and issuance of certificate of death. He has also given his statement in writing which is taken on record.

08. Mr. Shamshad Ali Numberdar appeared and contended that his signatures on Form-B are fake. He further submitted that he himself attended the funeral of Mr. Sadiq Ali (Late) on 03.01.2024. He confirmed that Mr. Sadiq Ali died on 02<sup>nd</sup> January, 2024.

07. Mr. Kafiat Ullah, Imam Masjid appeared and confirmed that he himself lead the funeral prayer of the deceased on 03.01.2024 after Zuhar Prayer and confirmed that Mr.





Sadiq Ali died on 02.01.2024. He also added that the date of death i.e 15.01.2024 is not correct. He has also submitted his written statement which has been taken on record.

09. Mr. Ali Hassan, Chowkidar and Liaquat Ali S/o Abdul Latif Ex-Councilor have also given their hand written statements confirming the stance of death of Mr. Sadiq Ali on 02.01.2024 and further stated that he was buried on 03.01.2024. The statements are also taken on record.

10. We have heard the arguments and perused the record including the statements given by all the above mentioned respondents and inquiry conducted by ADC (G).

11. Before going further the relevant provision of Section 73 of the Elections Act, 2017 is reproduced here under:-

**"73. Death of a candidate after nomination.—(1) If a contesting candidate dies before commencement of the poll or during the polling hours, the Returning Officer shall, by public notice, terminate the proceedings relating to that election.**

**(2) Where the proceedings relating to an election have been terminated under sub-section (1), fresh proceedings shall be commenced in accordance with the provisions of this Act, as if for a new election but it shall not be necessary for the other contesting candidates to file fresh nomination papers or make a further deposit under section 61."**

12. Section 73 of the Elections Act, 2017 provides that if the Contesting Candidate dies before commencement of the poll or during the polling hours the Returning Officer shall, by public notice terminate the proceedings relating to the Elections. Sub Section 2 of the Section 73 elaborates that where the proceedings relating to elections under Sub-Section 1 have been terminated, fresh proceedings shall be commenced in accordance with provision of this Act. For a new election it is not necessary for the other Contesting Candidates to file fresh nomination papers or make further deposit under Section 61 of the Act *ibid*. The term Contesting Candidate is defined under Section 2(xiii) of the Elections Act, 2017. Contesting Candidate means a validly nominated candidate who has not withdrawn his candidature. In the instant matter as reported by DRO, ADC(G), Numberdar, Wife and Daughters of Mr. Sadiq Ali (Late) and other persons appeared and confirmed the death of the Contesting Candidate, Mr. Sadiq Ali on 02.01.2024 and was buried on 03.01.2024. The funeral prayer was performed by the Imam Masjid on 02.01.2024. The date for withdrawal of candidature was 12.01.2024. Mr. Abdul Salam S/o of Mr. Sadiq Ali (Late) will fully concealed the fact of death of his father from the Returning Officers concerned and District Returning Officer. He also submitted fake





documents in respect of date of death of his father which was Contesting Candidate from NA-83 and NA-85.

13. Since, the death of Mr. Sadiq Ali (Late) has been confirmed on 02.01.2024, a dead person cannot be declared as validly nominated candidate which is not covered under Section 73 of the Elections Act, 2017. The provisions of Section 73 do not attract in the instant matter.

14. Election Commission of Pakistan is a Constitutional body constituted under Article 218(2) of the Constitution. The Commission is charged with the duty to conduct free, fair and transparent Elections and empowered to guard against the corrupt practices. Mr. Abdul Salam has submitted false and incorrect documents and has also given false declaration before the Returning Officers which comes under the definition of corrupt practices. The relevant Section of Law is reproduced here under:-

**"173. Making or publishing a false statement or declaration.**—A person is guilty of making or publishing a false statement or declaration if he makes or publishes a false statement or submits false or incorrect declaration in any material particular—

(a) concerning the personal character of a candidate or any of his relations calculated to adversely affect the election of such candidate or for the purpose of promoting or procuring the election of another candidate, unless he proves that he had reasonable grounds for believing and did believe, the statement to be true;

or

(b) relating to the symbol of a candidate whether or not such symbol has been allocated to such candidate;

or

(c) regarding the withdrawal of a candidate;

or

(d) in respect of statement of assets and liabilities or any liability with regard to payment of loans, taxes, government dues and utility expenses.

**174. Penalty for corrupt practice.**—Any person guilty of the offence of corrupt practice shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one hundred thousand rupees or with both".

15. In view of above mentioned circumstances. Inquiry conducted by the ADC (G), statements given by the Returning Officers and all the respondents and confirmation of death of Mr. Sadiq Ali (Late) on 02.01.2024 and in exercise of its powers under Article 218(3) read with Section 4 and 8(c) of the Elections Act, 2017, the public notice issued by the concerned Returning Officers of NA-83 and NA-85 under Section 73 of the Elections Act, 2017 in respect of termination of proceedings of Election are declared null



and void and Election in the Constituencies will be conducted in time as per election programme issued by the Commission on .15.12.2024. It is further directed to file a complaint of corrupt practices for giving false and incorrect information and declaration against Mr. Abdul Salam S/o Sadiq Ali (Late). 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

