

BEFORE THE ELECTION COMMISSION OF PAKISTANPRESENT:

MR. SIKANDAR SULTAN RAJA	CHAIRMAN
MR. NISAR AHMED DURRANI	MEMBER
MR. SHAH MUHAMMAD JATOI	MEMBER
JUSTICE (R) IKRAM ULLAH KHAN	MEMBER

Case No. F. 8(2)/2024-Law-III

In Ref: ELECTION PETITION UNDER SECTION 142 OF THE
ELECTION ACT, 2017 READ WITH ALL OTHER
ENABLING PROVISIONS OF LAW

APPLICATION FOR TRANSFER OF ELECTION
PETITION U/S 151 OF ELECTION ACT

Dr. Tariq Fazal Choudhry,

....Applicant

Versus

Muhammad Shoaib Shaheen & Other

.....Respondents

For the Petitioner : In person along with
Ghulam Murtaza Khan,
Advocate along with
Haseeb Advocate.

For the Respondent : In person along with
Zia Ullah Khan Advocate,

Date of Hearing : 07-06-2024

ORDER

Justice (R) Ikram Ullah Khan, Member, We intend to decide the above mentioned titled application preferred by the petitioner, Dr. Tariq Fazal Choudhry whereby, who has invoked the jurisdiction of the Commission in term of Section 151 of the Election Act, 2017 (herein after referred as "the Act") for transfer of Election Petition No. 73 of 2024 titled as Shoaib Shaheen Vs Dr. Tariq Fazal Choudhary and others subjudice before the Learned Election Tribunal (herein after referred as "the Tribunal") at Islamabad.

2. In fact respondent herein namely Mr. Muhammad Shoaib Shaheen has challenged the Elections thereto National Assembly seat NA-47 Islamabad, by filling Election Petition against the applicant on multiple grounds well mentioned therein the Election Petition. During course of trial of the election petition, applicant keeping in view the conduct of trial, feeling apprehensions and gaining perception of



some biasness, filed the instant application under Section 151 of the Act, 2017 for the transfer of the said election petition from Learned Election Tribunal, Islamabad to any other Learned Election Tribunal.

03. The learned counsel appeared on behalf of the applicant contended that the proceeding in the Election Petition No. 73 of 2024 titled as Shoaib Shaheen Vs Dr. Tariq Fazal Choudhary and others as conducted so far by the Learned Tribunal is against law and rules on the subject;

- i. *that the attending circumstances, prima facie give rise to a strong inference, that the Learned Tribunal is determined to decide the fate of the Election Petition, on the basis of affidavits, already filed by some of the respondents including the Election Commission of Pakistan under the direction of the Learned Tribunal which gave rise to and created apprehension in the mind of the applicant that Learned Tribunal is bent upon by adopting a novel procedure for disposal of and decision over the fate of the subjudice Election Petition, which is nowhere, prescribed there under any of the provision of the Act, 2017. thereby causing prejudice to the vested and legal rights accrued to the applicant by afflux of law;*
- ii. *that the Learned Tribunal has harassed the Returning Officer by imposing a fine of Rs. 15000/- on account of a single time non-appearance and also warned him of issuance of warrant of arrest;*
- iii. *that no doubt the Election Petition is still subjudice before the Learned Tribunal which require adjudication in accordance with law, but commencement of trial over an Election Petition is subject to fulfillment of prescribed conditions well mentioned under the provision of Section 142 to 144 of the Act, 2017 and Rules 140 of the Rules, 2017 but the Learned Tribunal without affording opportunity of hearing over the maintainability and competency of the Election Petition, admitted the said petition by by-passing the mandatory provision of the Act, 2017 which is hopelessly time barred, incompetent and non-maintainable. Such conduct of the trial has created an actual perception of biasness towards the Learned*

