

ELECTION COMMISSION OF PAKISTAN

PRESENT:

MR. SIKANDAR SULTAN RAJA,	CHAIRMAN
MR. NISAR AHMED DURRANI,	MEMBER
MR. SHAH MOHAMMAD JATOI,	MEMBER
MR. BABR HASSAN BHARWANA,	MEMBER
MR. JUSTICE(R) IKRAMULLAH KHAN	MEMBER

Case No. 8(18)/2022-LAW-III

In Ref: W.P NO. 4736/2022 ALONGWITH FIVE OTHER WRIT PETITIONS BEARING NUMBERS 4738,4752,4775,4777 AND 4778 OF 2022, FILED BY MR. HARIS KHAN, KHURRAM SHAHZAD, AZHAR MAHMOOD, MUHAMMAD FAROOQ NAVEED IQBAL AND ASIF

PETITIONERS:

- | | |
|---|-----------|
| 1. Mr. Haris Khan in Writ Petition No. 4736/2022... | Nemo |
| 2. Mr. Khurram Shahzad in W.P No. 4738/2022... | Nemo |
| 3. Mr. Farooq in W.P No. 4775/2022.... | Nemo |
| 4. Mr. Naveed Iqbal in W.P No. 4777/2022.... | Nemo |
| 5. Mr. Asif in W.P No. 4778/2022..... | Nemo |
| 6. Mr. Azhar Mehmood in W.P No. 4752/2022... | In Person |

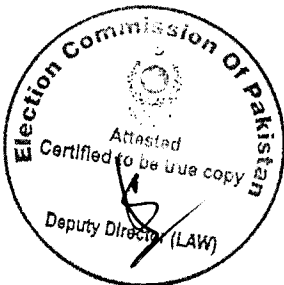
For the ECP : Mr. Zafar Iqbal Hussain, Special
Secretary, ECP

Date of Hearing : 28.12.2022

ORDER

Sikandar Sultan Raja, Chairman.— Brief facts of the case are that the

Petitioners through six Writ Petitions mentioned above challenged the Electoral Rolls of the Islamabad Capital Territory before Hon'ble Islamabad High Court and contended that they are aggrieved of the fact that the Petitioners are member/candidate/voters in various Union Councils and in the Voter lists the votes from other Union Councils have either added or deleted. The Hon'ble High Court while deciding the matters remitted the



abovementioned Writ Petitions to the Commission with the directions to decide the matters after providing an opportunity of hearing to the Petitioners on 28-12-2022.

2. In compliance with the directions of the Hon'ble Islamabad High Court Notices were issued to all the Petitioners to appear for hearing on 28-12-2022.

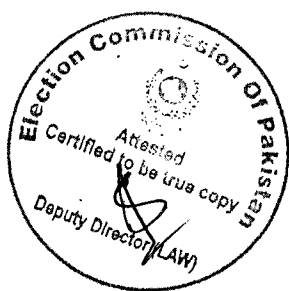
3. Today matter was taken up for hearing. However, despite service of notices to the Petitioners no one appeared except Petitioner No.06.

4. Mr. Azhar Mehmood Petitioner No.06 appeared in person and submitted that he is the permanent resident of Dak Khana Khaas Rawat and is also candidate for Chairman from UC 11 Islamabad. He argued that votes from U.C 11 have been shifted to U.C 5. He further argued that it is the requirement of Section 25 of ICT Local Government Act, 2015 that the person contesting the election must be enrolled as a voter in the electoral roll of that Union Council. He prayed for correction of Electoral Roll in respect of U.C 11.

5. At the very outset of the proceedings, Special Secretary, ECP appeared and briefed the Commission in detail.

6. Arguments heard and record perused.

7. The Election Commission of Pakistan is charged with the duty to organize and conduct elections and to make such arrangements as are necessary to ensure that election is conducted honestly, justly, fairly and in accordance with the law and that corrupt practices are guarded against under Article 218(3) of the Constitution of Islamic Republic of Pakistan, 1973. The Commission is also charged with the duty, inter alia, to hold Local Government Elections under Article 140-A(2), 219(d) of the Constitution. The Commission is also under obligation to hold the local government elections within 120 days of the expiry of the term of the local governments under section 219(4) of the Elections Act, 2017. The

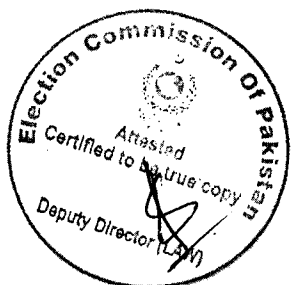


Commission before the expiry of the term of the local governments in the ICT and the provinces had approached the Federal and Provincial governments for consultation and timely conduct of the local Government elections in order to fulfill its constitutional mandate.

7. Under Chapter 4 of the Elections Act, 2017, a proper mechanism for the correction of Electoral Rolls has been provided. Section 25 of the Act *ibid*, provides that the National Database and Registration Authority (NADRA) shall transmit relevant data of every fresh National Identity Card issued by it to the Election Commission for registration of the card-holder as a voter in the electoral roll of an electoral area in which his permanent or temporary address is located, in accordance with the option indicated by him in the application for issuance of the National Identity Card. And NADRA shall also transmit the data of every cancelled or modified ID card regarding deceased voters. Any person whose name is not included in an electoral roll and who claims that he was or is entitled to be enrolled on that roll, may apply to the appropriate Registration Officer and any person may apply to the Registration Officer for the correction of any entry in an electoral roll. Relevant Sections are reproduced for the purpose of clarity as under:

"37. Enrolment and correction other than periodical revision.

— Subject to section 39— (a) any person whose name is not included in an electoral roll and who claims that he was or is entitled to be enrolled on that roll, may apply to the appropriate Registration Officer, on the prescribed form along with a copy of the National Identity Card issued to him under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000) for the inclusion of his name in the electoral rolls, and if the Registration Officer is satisfied after giving notice or making such enquiry as he may deem necessary, that the applicant was or is entitled to have his name so enrolled, he shall insert the name of such person in the database of the electoral roll and shall also make necessary entry in the master copy of the electoral roll maintained by him;



(b) any person may apply to the Registration Officer for the correction of any entry in an electoral roll—

(c)

(d)

(e)

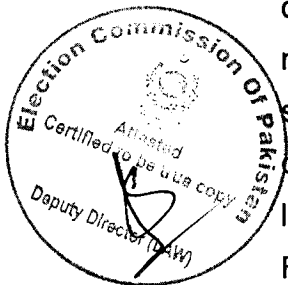
(f)"

"39. No revision, correction or transfer after constituency called upon to elect.—(1) No revision of or correction in an electoral roll of an electoral area or inclusion or transfer of a vote from the electoral roll of an electoral area to the electoral roll of another electoral area shall be made nor shall any order under section 38 be made in respect of any electoral roll during the period beginning thirty days before the day on which the term of an Assembly or a local government is due to expire till announcement of the results of the general election to the Assembly or the local government but it shall not apply to an election to fill a casual vacancy in an Assembly or a local government.

(2)

(3)"

8. That the Final Electoral Rolls (FER) was published under section 35 of the Elections Act 2017 on 7th October 2022 across the country. Immediately after publication of FER all DEC started receiving applications for inclusion/transfer of vote, deletion of vote or correction of voting particulars under Section 37 of the Act. Proper Display Centers were established throughout Islamabad and the statement regarding name of display Centers were also available to check their votes and correct those if needed. One window centers were established in the DEC's offices to sensitize the general public to check their voting particulars and get them corrected if needed Public awareness and media campaigns were also launched to aware the public regarding the correction in the electoral rolls. Facility of free SMS service at 8300 was also provided to the public to check where their vote is registered.



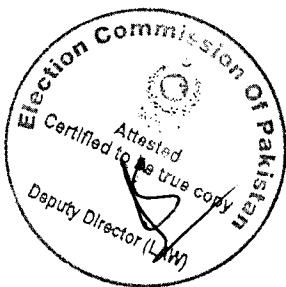
9. To update the Electoral Rolls, Commission carried out revision of Electoral Rolls and activities of the revision of Electoral Rolls were started w.e.f 08-10-2021. Door to door verification was carried out w.e.f 07-11-2021 to 31-12-2021. Detail for Forms received during the process is:

Form-13 (Application for enrollment)	2,61 Million forms containing 6.36 Million voters
Form-14 (Application for enrollment from Government Servant)	7,488 forms containing 17,077 voters

Commission published Preliminary Electoral Rolls on 21-05-2022 for inviting Claims, Objections and applications for corrections. Electoral Rolls were published for 41 days w.e.f 21-05-2022 to 30-06-2022 to facilitate the public with wide publicity through print, electronic, local media and also through other means including the local public awareness campaign and through 8300 SMS. Revising Authorities throughout the country were appointed for disposal of claims, objections and applications for corrections. Revising Authorities disposed-of all applications during the period 21-05-2022 to 09-07-2022. Details are as under:

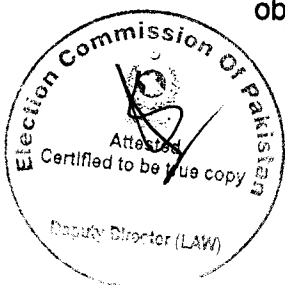
Form-15(Inclusion of name in the Electoral Rolls)	453,784
Form-16(Objection against any entry in the Electoral Rolls)	23,380
Form-17(Correction of particulars of voter)	2,248

Final Electoral Rolls were published on 07-10-2022. Section 37 of the Elections Act 2017, was operative till the announcement of Election Schedule i.e. 20-10-2022. During this period petitioner neither filed any objection nor complained on the electoral rolls. Increase or decrease in the number of Union Councils will add or remove entire Electoral Area(s) from one Union Council to another Union Council.



10. From the perusal of the record it reveals that this Commission has done all possible efforts for the conduct of local Government Elections in ICT and it is evident from record that Commission displayed provisional electoral roll list and also final electoral roll lists in a very elaborative manner and also ample time was given to the voters for the correction of electoral rolls but petitioners slept over their right and after the announcement of election schedule, they started the exercise to get transfer their names from an electoral area to another electoral area. It is trite law that one should be vigilant about their rights under the general law. The alleged voters have neither approached the Commission nor the Revising Authority for the correction/rectification of alleged wrong votes. The petitioners were under legal obligation to follow the statutory provisions provided for transfer or deletion of names from voter list of a particular village and inclusion thereof in the voter list of another village and that too, at the relevant stage and time. The petitioners have not followed the required procedure provided in Chapter-IV of the Act of 2017 and failed to apply to the Revising Authority or Registration Officer for this purpose at the relevant time. It transpires from the record that the petitioners have made no effort at the time when the electoral rolls were being prepared by the Revising Authority or Registration Officer and stood up at eleventh hour, after the announcement of election schedule. However, no revision, correction in an electoral roll of an electoral area or inclusion or transfer of a vote from the electoral roll of an electoral area to the electoral roll of another electoral area can be made after constituency is called upon to elect, as envisaged by Section 39 of the Act of 2017.

11. In view of the above, the petitions are hereby dismissed. The Petitioners are directed to approach the concerned DEC/Registration Officer Islamabad for redressal of their grievances and to appear before him on 5th January, 2022. The Election Schedule of the ICT has been postponed on 27-12-202, therefore, they may file applications for transfer or objections on voter under Section 37 of the Elections Act, 2017. It is further



directed that the petitioners to firstly ensure that their addresses on ID card are specific and correct according to the ground realities and limits of the Census Blocks and get their addresses revised in ID cards, if required from NADRA.

TY PRINTING CORPORATION

(Sikandar Sultan Raja)
Chairman

PAKISTAN SECURITY

(Nisar Ahmed Durrani)
Member-I

(Shah Muhammad Wajid)
Member-II

(Babar Hassan Bhawana)
Member-III

(Justice (R) Ikram Ullah Khan)
Member-IV

