

BEFORE THE ELECTION COMMISSION OF PAKISTAN

PRESENT:

MR. NISAR AHMED DURRANI, MEMBER

MR. SHAH MUHAMMAD JATOI, MEMBER

Case No. 7 (577)/2024-LAW-III (GE)

In Ref: **APPLICATION FOR REVIEW OF ORDER DATED 11.02.2024 IN CASE NO. 2 (12)/2024-CORD FILED BY ALI HASSAN ZEHRI DTED PB-21 HUB (FILED BY MUHAMMAD SALEH BHOOTANI)**

AND

In Ref: **APPLICATION BY MR. ALI HASSAN ZEHRI (CANDIDATE) UNDER ARTICLE 218 (3) OF THE CONSTITUTION OF PAKISTAN 1973 READ WITH SECTION 95 (6) OF THE ELECTION ACT, 2017 AND ALL OTHER ENABLING PROVISION IN RESPECT OF PB-21 BALOCHISTAN**

Ali Hassan Zehri, PB-21, District Hub, Balochistan

...Petitioner (s)

VERSUS

District Returning Officer Hub Balochistan and others

... Respondent (s)

For Ali Hassan Zehri : Mr. Wasim Sajjad, Senior ASC

For Muhammad Saleh Bhootani : Mr. Liaqat Ali Tareen, ASC

Date of Hearing : 05.03.2024

ORDER

Mr. Nisar Ahmed Durrani, Member.— Shortly the facts giving rise to instant matter are that Ali Hassan Zehri contesting candidate from PB-21, made a petition for recounting of votes of the constituency in question. This Commission on application of Ali Hassan Zehri passed an order dated 11.02.2024 for recounting of votes of 39 polling stations. The operative part of order is as below:

“4. In view of the above, the Commission in exercise of powers under section 95 (6) of the Elections Act, 2017 and Article 218 (3) of the Constitution and all other enabling powers enabling in this behalf, orders recount in the subject constituency of the polling stations mentioned herein above. The RO is directed to issue notices to the



contesting candidates of the time, date and venue of the recounting."

2. In pursuance of above order, process of recounting was initiated by the Returning Officer, however, it was reported by the Provincial Election Commissioner, Balochistan as well as RO concerned that during recounting process, when re-counting of 09 polling stations had been completed, law and order situation was created by the miscreants who entered the office of RO and resorted to temper the polling record. In such view of the matter, process of re-counting was stopped and Committee was constituted for fact finding inquiry. The Inquiry Committee after doing the needful has furnished its report. In the meanwhile above titled applications were received by the candidates. In such view of the matter, notices were issued to the parties for hearing.

3. Both the applicants were duly represented. Learned counsel for Ali Hassan Zehri appeared and contended that in pursuance of order dated 11.02.2024, process of recounting was taken up after due notice to all candidates by the Returning Officer. That during recounting Returning Officer fell seriously ill and was sent to hospital for his medical treatment. That in view of illness of Nisar Ahmed, duties of RO were assigned to Mr. Ali Raza Khosi to complete the remaining process. He emphasized that due to law and order situation, recounting was stopped at that time but now situation is under control and there is no law and order problem in any manner, therefore, process of recounting may be completed in accordance with law.

4. Contesting candidates namely Mansoor Ahmed Baloch, Haji Naveed Akbar, Muhammad Jan, Sikandar Khan, Rajab Ali Rind,



Abdul Jabbar, Abdul Wahab and Rehmatullah appeared in person and prayed that process of recounting of votes may be completed in the interest of justice.

5. Contrary to above, learned counsel for Muhammad Saleh Bhootani vehemently argued that applicant (returned candidate) has secured 30,910 votes while Rajab Ali rind has secured 17,000 votes whereas Ali Hassan Zehri has secured 14,120 votes. He contended that after re-counting of ballot papers of 9 polling stations, result remained unchanged. He further emphasized that during re-counting serious violence and incidents of firing took place and as a result whereof, three casualties took place apart from several injured. Contended that FIRs have also been registered. He prayed that order dated 11.02.2024 may be recalled.

6. We have heard the arguments and perused the record as well as report submitted by the Inquiry Committee. During the course of arguments, learned counsel for Muhammad Saleh Bhootani stated that after recounting of ballot papers of 9 polling stations, result of constituency remained unchanged, however learned counsel for Ali Hasan Zehri did not rebut the stance of learned counsel. It is also matter of fact as admitted by both the parties as well as proven from the record that three persons were killed during recounting on 12.02.2024. In such view of the matter and circumstances, it would be in the fitness of things that process of recounting, initiated by the Returning Officer be stopped to avoid any further untoward incident.


7. Consequently, application of Muhammad Saleh Bhootani is allowed and our earlier order dated 11.02.2024 is hereby recalled.



Since Form-47 has already been issued, therefore, Returning Officer is hereby directed to complete the remaining process of final consolidation under the law and furnish Forms-48 & 49 in accordance with Form-47 within three days positively.

8. Office to take follow up action and the precedence.


(Nisar Ahmed Durrani)
Member


(Shah Muhammad Jatoi)
Member

Islamabad
The 5th March, 2024

