

No.F.3(1)/2022-LGE(S)
ELECTION COMMISSION OF PAKISTAN

ORDER

Islamabad, the 13th January, 2023

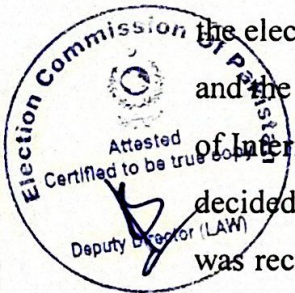
Subject:- **CONDUCT OF 2ND PHASE LOCAL GOVERNMENT ELECTION IN THE PROVINCE OF SINDH IN KARACHI AND HAYDERABAD DIVISIONS.**

WHEREAS; the Election Commission is charged with the duty under Article 140-A(2) read with Article 219(d) and Article 218(3) and further read with Article 222 of the Constitution of Islamic republic of Pakistan (hereinafter referred as "the Constitution") and Section 219(4) of the Elections Act, 2017 (hereinafter referred as "the Act") to conduct Local Government Elections in the provinces and Islamabad Capital Territory.

AND WHEREAS; the term of Local Government in Sindh expired on 30-08-2020 and the Commission was under constitutional and legal obligation to hold Local Government Elections within 120 days after the expiry of term of the Local Government.

AND WHEREAS; the Election Commission issued Schedule for conduct of Local Government Elections in Karachi and Hyderabad/Thatta Division on 29-04-2022 with poll date 24-07-2022. The said schedule was suspended by this Commission and the Local Government Elections in Karachi and Hyderabad division were postponed till 28.08.2022 vide order dated 20.07.2022 on account of inclement weather including thunderstorm and torrential rains and Ashura in Karachi and Hyderabad. Due to heavy rain and flood situation in the province of Sindh, the elections were again postponed vide order dated 24.08.2022 till the normalization of situation and the poll date was again fixed on 23.10.2022. The Commission received a letter from Ministry of Interior dated 18.10.2022 on account of lack of availability of the law enforcing agencies, and decided to postpone the election vide order dated 18.10.2022. Another letter dated 22.10.2022 was received from the Ministry of Defense Production of Pakistan, due to international defense exhibition and seminar (IDEAS) at Karachi Expo Center, stating the non-availability of the law enforcing agencies and requested that the Local Government Elections be postponed. The Commission fixed the matter for hearing on 15-11-2022 and after hearing the parties decided that Local Government Elections in Karachi and Hyderabad Divisions will be held on 15th January 2023.

AND WHEREAS; four applications were received from MQM (P) dated 30-12-2022, Advocate General of Sindh dated 19-12-2022 and Jamat-e-Islami dated 21-12-2022 and 27-12-2022. MQM in its application raised objections regarding use of fresh/new Electoral Rolls



for the conduct of 2nd phase of LG elections in Sindh. Advocate General Sindh wrote a letter regarding implementation of judgment passed by the August Supreme Court in C.P. No. 841-K dated 17-08-2022 while Jamat-e-Islami through their two applications insisted upon the timely conduct of 2nd phase of LG elections in Sindh and issuance of directions for the Sindh Government regarding posting/ transfer of administrators in violation of Code of Conduct.

AND WHEREAS; The application filed by MQM was rejected and application filed by Jamat-e-Islami was accepted and it was decided to conduct 2nd phase of LG elections on 15th January 2023, as per schedule. Directions were also issued under Article 220 of the Constitution to Chief Secretary, IG Sindh and law enforcement agencies for proper assistance to the Election officials for free and fair conduct of LG Elections in Sindh.

AND WHEREAS; Provincial Government Sindh through letter dated 12-January, 2023 addressed to the Provincial Election Commissioner Sindh, Copy endorsed to this Commission while conveying the decisions of the provincial cabinet and notifications No.RO9LG/E14(20)/2021 dated 12th January 2023 stated that under Section 10(1) and 16 of the SLGA-2013 the earlier notification(s) dated 31-12-2021 have been withdrawn/cancelled regarding the number of local councils. Further the Provincial Government vide letter dated 12-01-2023 also requested for postponement of elections in Talukas Mehar and Khairpur Nathanshah of District Dadu due to post flood situation.

AND WHEREAS; the Commission in its meeting considered the Notifications and stance of the Provincial Government of Sindh and also perused the relevant provisions of Constitution, Law and dictums of the Superior Courts of the land with regard to timely Conduct of Local Government Elections.

AND WHEREAS; all the arrangements regarding the conduct of Local Government 2nd Phase Local Government Elections in Karachi and Hyderabad/Thattha Divisions have been finalized, comprising of printing of ballot papers, bulk breaking of election material, appointment of polling staff etc. and the stages is now set for poll.

AND WHEREAS under proviso in Section 9(2)(b) of the SLGA-2013, it is categorically mentioned that the limits of any local areas cannot be changed after the announcement of election schedule by the Election Commission till the notification of the names of returned candidates of the election.



AND WHEREAS; the act of Provincial Government of Sindh regarding withdrawal of the notifications of the local areas two days before the poll date is against the spirit of the Constitution and Law and in violation of proviso of Section 9(2)(b) of the SLGA-2013.

AND WHEREAS; a detailed ground survey has been conducted by the team of the Provincial Election Commissioner Sindh and it has been found that situation in khairpur Nathanshah of District Dadu is conducive for the conduct of poll, in both the Talukas.

NOW THEREFORE; the Election Commission under Article 140-A(2), Article 219(d), 218(3) and Article 222 of the Constitution and read with Section-219(4) of the Elections Act, 2017 and the Judgments of the Apex Court handed down from time to time with regard to timely conduct of Local Government Elections and Reported in PLD 2010 SC 573, PLD 2012 SC 681, 2014 SCMR 101, 2021 SCMR 714 and the judgment passed by the august Supreme Court in C.P. No. 841-K dated 17-08-2022, it is held that the Notifications dated 12-01-2023 issued by the Provincial Government of Sindh are in violation of proviso under Section 9 (2)(b) of the SLGA-2013 and decides to continue the process of 2nd Phase Local Government Elections and polling in all the districts of Karachi and Hyderabad divisions held on 15-01-2023 as per Schedule. The request for postponement of Elections in Tehsil Mahar and khairpur Nathanshah of District Dadu by the Provincial Government Sindh is also hereby regretted. The Chief Secretary and IG Sindh are directed to make all necessary foolproof arrangements including provision of security to the voters and for conduct of free and fair local Government Elections in Sindh. The Secretary and Special Secretary Election Commission are also directed to proceed to Karachi to co-ordinate with the relevant authorities, Provincial Government and Law Enforcement agencies to ensure smooth conduct of elections.

By the order of the Election Commission of Pakistan



SIKANDAR SULTAN RAJA
Chairman

SHAH MUHAMMAD JATOI
Member

NISAR AHMED DURRANI
Member

BABAR HASSAN BHARWANA
Member

JUSTICE (R) IKRAMULLAH KHAN
Member