ELECTION COMMISSION OF PAKISTAN

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

Case No. 6(38)/2025-Law (III)

SECTION 219(3) OF THE ELECTION UNDER Subject: NOTICE OF HOLDING OF RESPECT IN ACT,2017, GOVERNMENT ELECTIONS IN THE ISLAMABAD CAPITAL TERRITORY.

On Commission's Notice

The Secretary, Ministry of Interior, Pakistan. i.

The Chief Commissioner, ICT, Islamabad ii.

.....Respondent(s)

For the Respondents

Chief Commissioner (ICT), Additional Secretary (M/o

Interior on behalf of Secretary Interior along with Chief

Officer (MCI-ICT).

For the ECP

Secretary ECP, Special Secretary, ADG (LGE), Director

(Law), DD (Law) & DD (LG-Balochistan & ICT).

Date of hearing

13-11-2025

ORDER

Sikandar Sultan Raja, Chairman- Brief facts of the case are that the term of the Local Government in the Islamabad Capital Territory (ICT) expired on 14 February 2021. Under Section 219(4) of the Elections Act, 2017 (hereinafter referred to as the Act), it is duty of the Election Commission of Pakistan (hereinafter referred to as the Commission) to hold Local Government elections within 120 days after expiry of the term.

For this purpose, the Commission initiated the process of consultation for the 02. conduct of local government elections in ICT and started the process of delimitation. The Commission approached the Federal Government for completing the required legislative process and for provision of maps, data, documents, and notifications which were necessary for the conduct of fresh delimitation of constituencies in the ICT. In this regard several letters dated 09.12.2020, 13.01.2021, 29.01.2021, 12.02.2021, 24.02.2021, 26.03.2021, and 07.09.2021 were sent to the relevant authorities. Additionally, meetings of the Commission were also he

02.02.2021, 05.04.2021, and 05.08.2021 with the concerned departments and during the meeting, the Ministry of Interior raised a query that delimitation could not be undertaken in the absence of officially notified results of population census. Ministry of Interior, informed the Commission that the Federal Government was preparing the required maps, which would be provided shortly, and that proposed amendments to the Islamabad Capital Territory Local Government Act, 2015 (hereinafter referred to as the ICT LG Act, 2015) would soon be presented before the Federal Cabinet.

- On the order dated 10.11.2021, directed the Secretary, Ministry of Interior, vide order dated 10.11.2021, directed the Secretary, Ministry of Interior, with order dated 10.11.2021, directed the Secretary, Ministry of Interior, to provide the requisite legislation within ten days, and the Chief Commissioner, Islamabad, to furnish the necessary data and notifications. Instead of complying with this direction, the Federal Government promulgated the ICT Local Government Ordinance, 2021 on 24.11.2021. Thereafter, the Commission directed the Ministry of Interior to provide the Rules under the said Ordinance and the committee was constituted on 30.11.2021 in this regard.
 - Our Due to non-provision of relevant rules for the enlistment of electoral groups, the Commission issued notices to the Chief Commissioner ICT and the Secretary, Ministry of Interior, on 07.02.2022 and directions were issued to finalize the Rules by 24.02.2022. However, the Islamabad High Court, through its order dated 10.02.2022, suspended the operation of the Ordinance and the process of delimitation was stayed in Writ Petition No. 4640/2021 and other connected petitions, whereby, the ICT Local Government Ordinance, 2021, was challenged. By deciding the petitions, the Hon'ble Court, vide its judgment dated 16.03.2022, struck down the Ordinance and directed the Commission to conduct the Local Government elections in ICT in accordance with the ICT LG Act, 2015.
 - In compliance with the above mentioned directions the Commission once again initiated the process of delimitation under the Act of 2015 and issued its schedule on 25.03.2022 for delimitation of 50 Union Councils. The delimitation committees completed their tasks, and the final list of constituencies was published on 19.05.2022. The election schedule was issued on 02.06.2022, fixing the poll date as 31.07. 2022.Meanwhile, the Federal Government increased the number of Union Councils from 50 to 101. This decision was challenged by Dr. Tariq Fazal Chaudhry in Writ Petition No. 2235/2022 before the Islamabad High Councils from 50 to 101.

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Federal Government informed the court about the increase in number of Union Councils from 50 to 101 and the matter was disposed of on 22.06.2022.

- O6. The Commission thereafter issued a fresh delimitation schedule on 22.06.2022 for 101 Union Councils. The final list of constituencies was published on 26.08.2022, and the election schedule was issued on 20.10.2022, with polling date fixed for 31.12.2022. However, through notification S.R.O. No. 357/2022 dated 20.12.2022, the Federal Government further increased the number of Union Councils from 101 to 125. Despite this, the Commission decided on 20.12.2022 to proceed with the elections as per the already issued schedule. This order was challenged through Writ Petitions No. 4787 and 4809 of 2022, wherein the Islamabad High Court, vide judgment dated 23.12.2022, set aside the order of the Commission and remanded the matter for fresh consideration after hearing all the concerned parties.
- O7. In compliance with the directions of the Honorable Court, the Commission issued notices to the concerned parties, including the Attorney General for Pakistan, the Advocate General Islamabad, and the Ministry of Interior and fixed date for a hearing on 27th December, 2022. After hearing the arguments presented by all concerned parties, the Commission decided to postpone the Local Government Elections in the Islamabad Capital Territory, which were scheduled to be held on 31st December, 2022, till further orders.
- The matter was also taken up by the Hon'ble Islamabad High Court through 08. W.P. No. 1508/2024, pertaining to the conduct of Local Government Elections in the Islamabad Capital Territory (ICT). In compliance, the Election Commission submitted a detailed report along with a tentative schedule before the Hon'ble Court. Pursuant to the order dated 04.06.2024 passed by the Hon'ble Islamabad High Court in W.P. No. 1508/2024, the Election Commission of Pakistan completed the delimitation of 125 Union Councils and their respective wards, based on the 7th Digital Population Census, on 23.07.2024. Subsequently, the District Returning Officers (DROs), Returning Officers (ROs), and Assistant Returning Officers (AROs) were appointed and notified on 08.08.2024, and their requisite training was duly conducted. The election schedule for the Local Government Elections in ICT was issued on 08.08.2024 (and later revised on 20.08.2024) with the poll date fixed as 09.10. 2024. All necessary election materials including forms, envelopes, polling bags, standard stationery packs, and ballot paper stock were procured and arranged. Training of the election officials was also completed. As per the election programme, nomination papers were filed by the candidates up to 28.08.2024. Thereafter, the Federal Government, through the ICT Local Government

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(Amendment) Act, 2024, dated 30.08.2024, introduced several amendments to the ICT Local Government Act, 2015, including: -

- i. Increase in the number of general wards/seats in each Union Council from six (6) to nine (9).
- ii. Reduction in the number of women's seats in a Union Council from two (2) to one (1).
- iii. Addition of two new categories of reserved seats, namely "Businessman" and "Technocrat", under the category of Peasant/Worker seats.
- iv. Change in the mode of election for reserved seats (Women, Peasant/Worker, Youth, and Non-Muslims) from direct election to indirect/in-house election.
- v. Amendment in the eligibility criteria for contesting the election of Mayor and Deputy Mayors of the Metropolitan Corporation Islamabad (MCI), whereby only General Members became eligible to contest, excluding Members on reserved seats who were previously eligible and
- vi. Assignment of the function of convening meetings for elections to reserved seats and for the offices of Chairmen and Vice Chairmen of Union Councils to the respective Secretaries of Union Councils.
- 09. However, despite these sustained efforts, the Local Government Elections in ICT could not be held due to multiple impediments faced by the Commission, including:
 - Frequent alterations in the number of Union Councils, initially increased from 50 to 101 and subsequently from 101 to 125;
 - 2. Increase in the number of general wards per Union Council from six to nine;
 - 3. Reduction in the number of women's seats from two to one per Union Council;
 - 4. Introduction of a new category of "Businessman or Technocrat" in The ICT Local Government Amendment Act, 2024;
 - 5. Change in the mode of election for reserved seats and for the offices of Chairman and Vice Chairman from direct to indirect elections;
 - Non-provision by the Federal Government of the notification regarding reserved seats of the Metropolitan Corporation Islamabad; and
 - Non-finalization of the necessary amendments to the ICT Local Government Act, 2015 and the Rules framed thereunder.
- 10. The Commission submitted a report regarding the above amendments before the Islamabad High Court on 29.08.2024. Consequently, the delimitation and all preparatory steps undertaken by the Commission for the conduct of Local Government Elections in ICT (scheduled for 09.10.2024) became redundant. Subsequently, the Ministry of Interior (MOI), through a letter dated 04.09.2024, requested the Commission to recall the previously issued Election Programme and to conduct the elections in accordance with the amended law. The Commission, on 04.09.2024, placed the Election Programme in abeyance (which was later recalled on 12.12.2024). A meeting was held on 11.09.2024 with representatives of the Federal Government, including the Secretaries of the MOI, the Law and Justice Division, and the Secretaries

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Commissioner Islamabad, wherein the Commission highlighted certain discrepancies in the amended law particularly concerning the conduct of elections to reserved seats and for Chairmen/Vice Chairmen by Union Council Secretaries under Section 15 of ICT Local Government amendment Act, 2024.

- 11. To address these issues, a four-member committee was constituted comprising of: -
 - · Secretary, Election Commission of Pakistan;
 - Special Secretary (Law), Election Commission of Pakistan;
 - Secretary, Ministry of Interior; and
 - Secretary, Law and Justice Division.
- Government Act, 2015, and to enable the MOI to submit recommendations and proposals before the appropriate forum regarding further necessary amendments in the Act and the Rules framed thereunder within ten (10) working days, so that the Commission could take a decision regarding the conduct of Local Government Elections. The MOI, on 21.10.2024, shared the draft ICT Local Government (Second Amendment) Bill, 2024 for the Commission's concurrence which was given on 05.11.2024. Reminders for the legislation were issued vide letters dated 14.11.2024 and 06.12.2024 to the Ministry of Interior (MOI) and in response, the MOI informed that the draft bill has been submitted to the CCLC for approval. Further, due to increase in the number of general wards from six to nine, fifth delimitation of Union Councils and wards was carried out by the Commission and completed on 12.03.2025.
- 13. On 2nd May 2025, the Commission convened a meeting with MOI officials and the Chief Commissioner, Islamabad, who informed that amendments to the ICT Local Government Act, 2015, and the Rules were under process. In response to the Commission's letter of 1 July 2025, the MOI, on 2 July 2025, informed that:-

"The ICT Local Government (Amendment) Bill, 2025 had been presented in the National Assembly on 12 May 2025 and referred to the Standing Committee on Interior and Narcotics Control; and draft amendments to the Rules were published on 30 June 2025, inviting objections and suggestions within 15 days."

- 14. The Commission, through letters dated 11 July and 13 August 2025, urged the MOI to expedite the process, however, on the Gazette Notification of the Rules were provided to the Commission on 19 August 2025.
- The Commission observed that the provisions of Section 15 of the Local Government Act, ICT, is inconsistent with the Constitution of the Islamic Republic of Pakistan.

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1973, and this observation was duly communicated to the Hon'ble High Court as well as to the Federal Government. On 27 August 2025, the Secretary, MOI, was once again directed to expedite the process of amendments to the ICT LG Act, 2015, followed by a final reminder on 16 October 2025. In response, the MOI, through a letter dated 23 October 2025, informed that the Standing Committee had met on 21 October 2025 and sought the complete background and context of the amendment bill for further consideration. In the meanwhile, the Islamabad High Court, through order dated 24 September 2025 in W.P. No. 1508/2024 (Air Commodore (R) Akhtar Nawaz v. MCI & others), directed the Commission to hold Local Government Elections in the ICT within 120 days under Section 219(b) of the Elections Act, 2017, and Article 219(d) of the Constitution. However, the operation of this order was suspended by a Division Bench on 22 October 2025 in an Intra-Court Appeal.

- The responses regarding legislation received from MOI from time to time were placed before the Commission for deliberation, discussion and further directions. The Commission after due deliberation decided to fix the matter for hearing with notice to Secretary Ministry of Interior and Chief Commissioner Islamabad under Section 219(3) and (6) of the Elections Act, 2017.
- Today, the Secretary ECP along with Special Secretary ECP appeared before the Commission and briefed regarding steps taken by the Commission for conduct of ICT local government elections. They apprised the Commission that the Federal Government is not taking the matter seriously and despite issuance of several letters, reminders, commitments and hearings, the process of legislation is still pending. They further informed the Commission that amendment in Section 15 of the ICT local government Act, 2015 which was laid by the Federal government is against the command of the Constitution and the process of legislation is still incomplete which is the main cause of delay in the conduct of ICT local government elections. They briefed the Commission that all the activities for the conduct of ICT local government elections have been completed including appointment of ROs, DROs, Procurement of election material and training of the election officers and officials. Finally they requested the Commission to announce the election schedule for the conduct of elections in Islamabad Capital Territory (ICT).
- 18. Director (Law) ECP appeared and emphasized the role and importance of conduct of local government elections in ICT and the provinces. He while mentioning the provisions of Article 32 of the Constitution stated that the said Article provides that the state shall encourage local government institutions composed of elected representatives. He referred

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various provisions of the Constitution and Elections Act, 2017 whereby, it is provided that the conduct of local government elections is the duty of Election Commission of Pakistan in accordance with the applicable local government laws, however, in terms of Article 218(3) read with Article 219 and further read with Article 222 of the Constitution the Commission is empowered to issue directions for timely conduct of local government elections in the provinces and ICT. He also mentioned Section 219(6) of the Elections Act, 2017 and highlighted that the Commission through issuance of a speaking order in the official gazette can make necessary provisions and directions regarding the conduct of local government elections if no provisions or insufficient provisions are made. Therefore, while concluding his arguments he stated that the Commission may issue election program for the conduct of ICT local government elections.

- Additional Secretary MOI appeared before the Commission and stated that the Amendment Bill is before the Standing Committee and it is at final stages of approval. He further informed that the Members of the Standing Committee had requested for detailed briefing from the Ministry of Law and Justice and CDA regarding the structure of local government in ICT. He further mentioned that there is a vacancy for Businessman, however, due to lack of definition of "Business Man" it will create hurdles in future for the conduct of focal government elections, therefore, he requested for time for approval of amendment from the Standing Committee.
- Chief Commissioner ICT also appeared before the Commission and endorsed the viewpoints of Additional Secretary MOI.
- 21. We have heard the arguments/ stance of the parties and perused the available record.
- 22. Before going into the details of the case relevant provisions of law are reproduced for easy reference.

Constitution of Pakistan 1973

Article 218 (3).....

(1).....

(2).....

(3) It shall be the duty of the Election Commission 4 to organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against.

Article 219

The [Commission] shall be charged with the duty of—





- ²[(a) preparing electoral rolls for election to the National Assembly, Provincial Assemblies and local governments, and revising such rolls periodically to keep them up-todate;]
- (b) organizing and conducting election to the Senate or to fill casual vacancies in a House or a Provincial Assembly; and
- (c) appointing Election Tribunals [;]
- [(d) the holding of general elections to the National Assembly, Provincial Assemblies and the local governments......

Article 140A

- [140A. (1) Each Province shall, by law, establish a local government system and devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments.
- (2) Elections to the local governments shall be held by the Election Commission of Pakistan.]

Article 220

It shall be the duty of all executive authorities in the Federation and in the Provinces to assist the Commissioner and the Election Commission in the discharge of his or their functions.

Article 222

Subject to the Constitution, [Majlis-e-Shoora (Parliament)] may by law provide for—

- (a)
- (b)
- (c)
- (d) the conduct of elections and election petitions the decision of doubts and disputes arising in connection with elections;
- (e)
- (f) all other matters necessary for the due constitution of the two Houses 2 [, **] the Provincial Assemblies 3 [and local governments;]
- but no such law shall have the effect of taking away or abridging any of the powers of the Commissioner or 4 [the] Election Commission under this Part.

Elections Act, 2017

Section 219

- 219. Commission to conduct elections.—(1) The Commission shall conduct elections to the local governments under the applicable local government law, and the Rules framed thereunder, as may be applicable to a Province, cantonments [or Islamabad Capital Territory.]
- (2) Notwithstanding anything contained in sub-section (1), the voting procedure for direct elections to the local governments in a Province, cantonments [or Islamabad Capital Territory] shall be the same as provided for election to the Assemblies under this Act.
- (3) Subject to sub-section (4), the Commission shall, in consultation with the Federal or Provincial Government, make an announcement of the date or dates on which the elections to a local government shall be conducted in a Province, cantonment, Islamabad Capital Territory [] or a part thereof.
- (4) The Commission shall hold elections to the local governments within one hundred and twenty days of the expiry of the term of the local governments of a Province, cantonment 1 [or Islamabad Capital Territory].
- (6) The Commission may, by order in the official Gazette, make provisions for the conduct of local government elections if no provision or insufficient provision has been made under this Act or the Rules.



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- That the Election Commission of Pakistan is an independent constitutional body constituted under Article 218(2) of the Constitution and is mandated in terms of Article 218(3) of the Constitution of Pakistan to organize and conduct elections and also to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law and also to evade the corrupt practices. The Commission is also charged with the duty to hold local government elections under Article 140A(2), 219(b) of the Constitution. The Commission is also under obligation to hold local government elections within 120 days after the expiry of the term of local government under Section 219(4) of the Elections Act, 2017. The term of the local government elections in the ICT was expired on 14.02.2021 and before the expiry of the term of local government, the Commission had repeatedly approached the Federal Government for completion of legislation, consultation and timely conduct of local government elections in ICT to fulfill constitutional requirement. In this regard the detailed brief background has been given in the brief history of the case and the crux is given below:-
 - Five times the process of delimitation was completed on 19.05.2022, 26.08.2022, 08.06.2023, 23.07.2024 & 12.03.2025.
 - Three times election programs was issued on i.e 02.06.2022, 20.10.2022 & 08.08.2024, which were recalled due to amendments made in the ICT Local Government Act or upon the request of the Federal Government.
 - Amendment in Section 15 of ICT Local Government Act, along with inclusion of definition of Businessman is required for the conduct of election which are still awaited.
 - Despite all the efforts since 2021 no positive response has been received from the Federal Government for the conduct of local government elections in ICT, therefore, the matter has been fixed for the fourth time before the Commission.
- 24. The Commission has exhausted all possible efforts for the conduct of local government elections in ICT but every time the Federal Governments from time to time has used delaying tactics. The Election Commission of Pakistan is charged with the duty under the Constitution to conduct elections to the office of President, Senate, National Assembly, Provincial Assemblies, Local Governments and Cantonment Boards. Article 140A(2) of the Constitution specifically provides that the local government elections in the provinces and ICT shall be held by the Election Commission of Pakistan, furthermore, pursuant to Article 222 of the Constitution, the Federal Legislature has enacted the Elections Act, 2017 whereby, Section 219 stipulates that Election to the Local Government shall be held within 120 days of the expression

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of the term of local government. It is also provided that the Commission shall conduct the local government elections in accordance with the applicable local government laws, however, no Government or Federal Legislature can make any law which is contrary to the provisions of the Constitution.

- 25. Article 222(f) of the Constitution bars any legislation by the Parliament or the Provincial Assemblies which takes away or abridges the powers of the Commission or Commissioner. The recent legislation passed through the Federal Legislation in the ICT Local Government Act in Section 15 through ICT Local Government amendment Act, 2024 whereby the secretaries of the Union Councils are empowered to conduct elections on the special seats for Women, Peasant worker or Technocrat or Youth Member or Non-Muslim as well as to elect Chairman and Vice Chairman as joint candidates of the concerned Union Council, is contrary to the provisions of Article 140A(2), 219(d) and 222 of the Constitution of Islamic Republic of Pakistan, therefore, the Federal Government was repeatedly asked and directed to amend the said provisions of Section 15 of ICT Local Government Act for timely conduct of local government elections in ICT. However, despite lapse of sufficient time no positive response has been received from the concerned authorities even the matter remained *subjudice* before the Hon'ble Islamabad High Court for more than one year.
- Provincial legislation or sub constitutional legislation, the Constitution shall prevail. In the present case Elections Act, 2017 and ICT Local Government Act, 2015 are Federal Laws, however, in case of contradiction; the Constitution is supreme and shall prevail. Furthermore, the august Supreme Court of Pakistan in the cases of President Balochistan High Court Bar Association and Raja Rab Nawaz have held that the Commission is charged with the duty of holding local government election in terms of Article 140A(2) and 219(d) of the Constitution and further held that the provinces may have power to legislate but if there is no legislation or there exists defective legislation, the ECP is not absolved from performing its duties under the Constitution. The august Court further held that the Constitutional provisions cannot be allowed to be not adhering for want of sub constitutional legislation.
- 27. The Election Commission of Pakistan is empowered under the Elections Act, 2017 and ICT Local Government Act 2015 to appoint District Returning Officers, Returning Officers & Assistant Returning Officers for the conduct of Local Government Elections. The relevant provisions of Elections Act, 2017 are Sections 50 & 224 while Section 20 of ICT Local Government Act, 2015 deals with it. These Sections are reproduced below, for reference.

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- "50. Appointment of District Returning Officer.—(1) For election to an Assembly, the Commission shall, in the prescribed manner, appoint a District Returning Officer for each district or a specified area—
- (a) from amongst its own officers subject to availability;
- (b) by selection from a list of officers provided by the Government or a Provincial Government; or
- (c) from the subordinate judiciary in consultation with the Chief Justice of the concerned High Court.
- 224. Election officials and polling stations.—The provisions of Chapter V of this Act relating to appointment of election officials and for the preparation of list of polling stations for an election to Assemblies shall, as nearly as possible subject to necessary modifications, apply to the appointment of election officials and for the preparation of the list of the polling stations for an election to a local government."

Section 20 of ICT Local Government Act, 2015:-

20. Appointment of Returning Officer etc.—(1) For the purpose of election under this Act and subject to sub-section (2), the Election Commission shall appoint District Returning Officers, Returning Officers and Assistant Returning Officer from amongst the officers of the Election Commission, the Government, a body or entity controlled by the Government."

28. Reference is also made to Administrator Municipal Corporation, Peshawar Vs. Taimur Hussain Amin passed by August Supreme Court of Pakistan vide judgment dated 15.03.2021, wherein Supreme Court was pleased to hold as under: -

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- "6. The matter of holding local government elections lies within the domain of the Commission as per Article 219(d) of the Constitution and a province cannot dictate to the Commission, if and/or when, the same can be held. On the contrary, Article 220 of the Constitution mandates that, 'It shall be the duty of all executive authorities in the Federation in the Provinces to assist the Commissioner and the Election Commission in the discharge of his or their functions.' In case the Federation and / or the Province(s) create hurdles in the way of the Commission holding elections, they will be violating the Constitution, which may attract serious consequences."
- Therefore, in view of the above discussion the Commission in exercise of Article 218(3) read with Articles 140-A, 220, 219 and 222 of the Constitution read with Sections 50, 219 & 224 of the Elections Act, 2017 and the judgment reported as 2021 SCMR 714 has decided to hold local government elections in ICT and further decided that the amendment made in Section 15 of ICT Local Government Act, 2015 through ICT amendment Act, 2024 is not in consonance with the provisions of Constitution, Elections Act, 2017 and Section 20 of ICT Local Government Act, 2015. The Commission is empowered under Sections 50, 219 & 224 of the Elections Act, 2017 read with Section 20 of ICT Local Government Act, 2015 to appoint DROs, ROs & AROs amongst its own officers, officers of the government, judiciary or a body or entity controlled by the government. The Secretary Union Council is not covered by the term

"officer" as mentioned in Section 50 of Elections Act, 2017 and cannot be endorsed by the Commission to fulfill the responsibilities to conduct of Local Government Elections. It is further held that the election to the reserved seats shall be conducted by the officers appointed and notified by the Commission in terms of Sections 50 & 224 of the Elections Act, 2017 and Section 20 of ICT Local Government Act, 2015 and ECP is not bound to appoint Secretary Union Council for conduct of ICT Local Government Elections. The office is directed to put up election program accordingly.

Sikandar Sultan Raja

Chairman

Nisar Ahmed Durrani Member Shah Muhammad Jatoi Member

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Babar Hassan Bharwana

Member

Justice (R) Ikram Ullah Khan

Member

