

IN THE COURT OF ELECTION TRIBUNAL,
HIGH COURT OF SINDH AT KARACHI.

ELECTION APPEAL NO. OF 2018

XXXXXXXXXXXX

0000000000000000-000

Muslim, Adult, by caste Bhurgri

AAAAAAAAAAAAAAAAAAAAAAAA

Taluka & District Tharparkar _____ Petitioner

Versus

1. Election Commission of Pakistan
Through its Chairman,
Having office at
Election house,
Constitution Avenue, G-5/2 Islamabad

2. Election Commission of Pakistan
Through its Chairman,

Having Office at
Shahrah-e-Iraq, Karachi

3. The District Returning Officer
District Mirpurkhas

4. The Returning Officer
PS 49, MPS-III
Civil Judge & JM
Kot Ghulam Muhammad
District Mirpurkhas

5. AAAAAAAAAAAAAAAAAAAAAAAAAA

S/O Mir Haji Lutif Allah Khan Talpur

CNIC # 0000000000000000-00000

Contesting Candidate for PS-00000

R/O P.S Kot Mirs, Deh 282

Taluka Kot Ghulam Muhammad,

District Mirpurkhas. _____ Respondents

ELECTION APPEAL UNDER SECTION 63(1) OF ELECTION ACT 2017

The Appellant above named respectfully submits as under:-

1. That the Appellant is contesting candidate of P.S 0000 Mirpurkhas-III and a peace loving and law abiding citizen of Pakistan, residing at the above address within the rights guaranteed under the Constitution of Islamic Republic of Pakistan, 1973.
2. That, the Appellant has a long uninterrupted history of social and political activism, having struggled throughout his life, for the realization of vast and simple desires of down trodden masses. The Appellant has been a political activist and has established his reputation as a committed and selfless political worker among the political classes. Furthermore, the Appellant has developed strong contacts **with the populace of his constituency, as he seriously** understands the aspirations of the people living in the constituency.
3. That the Appellant has intend to contest the election from P.S 0000 Mirpurkhas-III District Mirpurkhas and filing the objections with the nomination of the contesting candidate Mir Nasrullah Khan Talpur, Respondent No. 5 from the same constituency.

4. Being Aggrieved and dissatisfied with the acceptance of nomination of Respondent No. 5, the Appellant prefer this appeal to set aside the impugned Order dated 19-06-2018 of the Returning officer, the Respondent No. 4 and the Nomination form of the Respondent No. 5 be rejected on the consideration of the following facts and grounds:

**(The Copy of Impugned Order is attached herewith as Annexure
"A")**

FACTS:

1. The Appellant being citizen of Pakistan wanted to contest Election 2018, from the mentioned Constituency therefore the Appellant filled the nomination form and presented before the Respondent No. 4 and accepted another nomination form of the Respondent No. 5 from the same Constituency. The Appellant has filed the objections that:

2. That the Respondent No. 5 was allotted NTN certificate on -----
-----2005, with NTN No. XXXXX being a citizen of Pakistan and he has not filed Income Tax Returns as per law.

3. That the Respondent No. 5 received notices repeatedly through IRS software system for Tax year 2015 on 21-09-2017 and Tax year 2016 on 22-09-2017, which answered with non compliance till date.

5. That the Respondent No. 5 as per Passport No. XXXXXXXX failed to provide the photocopies of all pages of Passport of self, spouse and children.

6. That the Respondent No. 5 failed to provide the mentioned in Affidavit clause E valid rent Agreement of spouse receiving rental income from Telenor and Ufone towers and not submitting the Income Tax Returns and due Tax paid evidences.

7. That the Respondent No. 5 and spouse and dependants are the owners of vehicles and bunglow and still in active under Income Tax rules 2002.

8. That the Respondent No. 5 has mentioned in the Affidavit that his wife is separate Tax payer but she, actually not a separate Tax payer which is also a concealment of facts as per law.

9. That the Respondent No. 5 failed to provide documents of Agricultural land and non-agricultural properties.

(All relevant Documents are attached herewith as Annexure "B")

GROUNDS

- a. That in the light of the above facts and objections rose by the Appellant, the Impugned order dated 19-06-2018 passed by the Respondent No. 4 and accepting the nomination papers of the Respondent No. 5 is absolutely illegal, unlawful, void, ab-initio, opposite to facts, law, natural justice and equity as such is not sustainable in the eyes of law.
- b. That the Impugned Order is based on surmises and conjectures and contrary to law applicable thereto and decision of the Superior Courts in this regard
- c. That the Impugned Order is violation of the provisions of the Constitutions.
- d. That the Impugned Order is patently malafide, illegal, unlawful, arbitrary and discriminatory and in violation of the fundamental rights of the Petitioner guaranteed under the Constitution
- e. That according to the form of declaration of assets, the respondent No.5 is the owner of agricultural and non-

agricultural lands and other assets mentioned above the facts, which may be a healthy reason to reject his nomination Form for contesting the election 2018.

- f. That the Respondent No. 5 has not satisfied to Respondent No.4 on its status as non-filer, nor does he have any reasoning being made by the learned the Respondent No.4 which fact is an admission.
- g. That the Notices of FBR is an Evidence per se that that Respondent No. 5 has not replied to the FBR in respect of their notice tax defaulter defaulter.
- h. That the Respondent No.4 has not given due weight age to the FBR Notices. The Respondent No.5 has neither filed his return which is blatant violation of the law of land. No evidence has been produced. The case law referred to in this respect in the Impugned Order is not relevant the present facts of the objections rose by the Appellant.
- i. That the Respondent No. 4 has not expressly reasoned on the objection of Appellant regarding non-disclosure of the complete family by not filling the all pages of Passport along

with his Affidavit and Nomination papers. The Respondent No.4 in its comments filed has also ignored this fact.

- j. That from the acceptance of the nomination papers of Respondent No.5 by the Respondent No.4 indicates that he has miserably failed to consider this factual and admitted position and he blindly accepted the nomination paper of respondent No.5 without applying his judicial mind, who appears to be not entitled to contest the election on account of above mentioned facts / objections.
- k. That, no other efficacious remedy for the Appellant, at the moment, but to knock the door of this Honourable Court for justice through this petition.
- l. That for the above reasons the Appellant is “aggrieved person” under section 63(1) of election act 2017
- m. That, the counsel for the Appellant craves leave to urge further/ additional grounds at the time of hearing of this petition with the graceful permission of this Hon’ble Court.
- n. That the grounds if any, shall be urged at the arguments with the permission of this Hon’ble Court.

That the Appellant, therefore, pray as under;-

P R A Y E R

- (a) That this Honourable Court may kindly be pleased to suspend / set-aside impugned order dated 19-06-2018 passed by the Returning Officer (respondent No.4) accepting the Nomination papers of the respondent No.5, till the final disposal of this Appeal.
- (b) That, the Hon'ble Court very graciously be pleased declare the Respondent No.5 is not eligible candidate for PS-49 MPS-III, District Mirpukhas.
- (c) Any other relief, which this Honourable Court deems fit and proper.

Appellant

Karachi

Dated: 22-06-2018

Advocate for Appellant

DOCUMENTS FILED

All Relevant Documents

Karachi

Dated: 22-06-2018

Advocate for Appellant

Service of the Advocate for the Appellant

Mr. Javed Ahmed Qazi

Address: 10/2 Khayaban-e-Ameer Khusro

Phase - 06 DHA, Karachi

Ph: 0300-8220365

Email: jvqazi@gmail.com

Solemnly affirmed before me on this 22nd _____ of June, 2019 at Karachi.
The deponent is identified by Mr. Javed Ahmed Qazi, who is known to me.
The contents were truly, audibly and legibly explained to the deponent,
who admitted the same to be correct and signed before me.

Commissioner for taking affidavit

4. That whatever stated above is true and correct to the best of my knowledge and belief.

Karachi

Dated: 22-06-2018

Deponent

Advocate for Appellant

I know the deponent. He is the same person.

Solemnly affirmed before me on this 22nd day of June, 2019 at Karachi. The deponent is identified by Mr. Javed Ahmed Qazi, who is known to me. The contents were truly, audibly and legibly explained to the deponent, who admitted the same to be correct and signed before me.

Commissioner for taking affidavit

IN THE COURT OF ELECTION TRIBUNAL,
HIGH COURT OF SINDH AT KARACHI.
ELECTION APPEAL NO. OF 2018

XXXXXXXXXX_____APPELLANT

Versus

ELECTION COMMISSION OF PAKISTAN & OTHERS RESPONDENTS

APPLICATION UNDER RULE IX CHAPTER III-A
VOLUME V OF HIGH COURT RULES

It is respectfully prayed on behalf of the Appellant that this Honourable Court may be pleased to treat the matter as urgent one and take up and hear the same on _____ and restrained the impugned Order dated 19-06-2018 and reject the nomination papers of the Respondent No. 5 in the view of mentioned facts in the Appeal.

The prayer is made in the interest of justice.

Karachi

Dated: 22-06-2018

Advocate for Appellant

IN THE COURT OF ELECTION TRIBUNAL,
HIGH COURT OF SINDH AT KARACHI.
ELECTION APPEAL NO. OF 2018

XXXXXXXXXXXXXXXXXXXXX_____APPELLANT

Versus

ELECTION COMMISSION OF PAKISTAN & OTHERS___RESPONDENTS

APPLICATION UNDER SECTION 151 CPC

It is respectfully prayed on behalf of the Appellant that this Honourable Court may be pleased to exempt Appellant from filing the original annexures as well as certified copies, as same could not be prepared/obtained due to urgency, however Photostat copies of the same filed along with the present petition.

The prayer is made in the interest of justice.

Karachi

Dated: 22-06-2018

Advocate for Appellant

**IN THE COURT OF ELECTION TRIBUNAL,
HIGH COURT OF SINDH AT KARACHI.
ELECTION APPEAL NO. OF 2018**

XXXXXXXXXX _____ APPELLANT

Versus

ELECTION COMMISSION OF PAKISTAN & OTHERS RESPONDENTS

AFFIDAVIT

I, XXXXXXXXXXXXXXXXXXXXXXXXS/O XXXXXXXX Adult, Muslim, by caste Bhugri YYYYYYYYYYYYYYYY Mirpurkhas, do hereby state on oath as under

1. That I am the Appellant in the above matter as such am well conversant with the facts of the case.
2. That the accompanying urgency application has been drafted under my instructions.
3. That there exists great urgency, as the grounds mentioned in the memo of the Appeal.
4. That for the sake of brevity, contents of accompanying application may be treated as part and parcel of this affidavit.

5. Whatever stated above is true and correct to the best of my knowledge and belief.

Karachi

Dated: 22-06-2018

Deponent

4. That, for the sake of brevity the grounds mentioned in the accompanying application may be treated as a part and parcel of this affidavit.
5. Whatever stated above is true and correct to the best of my knowledge and belief.

Karachi

Dated: 22-06-2018

Deponent

	Affidavit		
5.	Exemption Application Along with Affidavit		
6.	Vakalatnama		

Karachi

Date: 22-06-2018

Advocate for Appellant