

**IN THE SUPREME COURT OF PAKISTAN**

(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE MIAN SAQIB NISAR, CJ

MR. JUSTICE SH. AZMAT SAEED

MR. JUSTICE MUSHIR ALAM

MR. JUSTICE SARDAR TARIQ MASOOD

MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL

**CIVIL APPEALS NO.56-L & 57-L OF 2018, CIVIL MISC. APPLICATION NO.1503-L OF 2018 IN CIVIL MISC. APPLICATION NO.64-L OF 2013 IN CONSTITUTION PETITION NO.87 OF 2011, CIVIL MISC. APPLICATION NO.4823 OF 2018 IN C.P. NIL OF 2018, CIVIL MISC. APPLICATION NO.4825 OF 2018 IN C.P. NIL OF 2018, CIVIL MISC. APPLICATION NO.4827 OF 2018 IN C.P. NIL OF 2018 AND CONSTITUTION PETITIONS NO.30 AND 31 OF 2018**

CA.56-L/2018                      Speaker, National Assembly  
of Pakistan, Islamabad Vs.  
Habib Akram, etc.

CA.57-L/2018                      Election Commission of  
Pakistan Vs.Habib Akram,  
etc.

CMA.1503-L/2018                  Workers Party and others Vs.  
in                                          Federation of Pakistan and  
CMA.64-L/2013 in                  others  
Const.P.87/2011

CMA.4823/2018 in                  Federation of Pakistan  
CP.Nil/2018                              through M/o Parliamentary  
Affairs and others Vs. Habib  
Akram and another

CMA.4825/2018 in                  Federation of Pakistan  
CP.Nil/2018                              through M/o Parliamentary  
Affairs and others Vs. Aitzaz

- Aslam Chaudhry and another
- CMA.4827/2018 in CP.Nil/2018 Federation of Pakistan through M/o Parliamentary Affairs and others Vs. Muhammad Ahmed Kamal and others
- Const. P.30/2018 Dr. Muhammad Zubair Khan and others Vs. Federation of Pakistan, Islamabad for the purposes of service through Secretary, Law and Justice Division, Islamabad
- Const. P.31/2018 Saad Rasool Vs. Federation of Pakistan and others
- For the Appellant (s) : Mr. Shahid Hamid, Sr. ASC  
(in CA.56-L/2018)
- For the Appellant (s) : Raja M. Ibrahim Satti, Sr. ASC  
(in CA.57-L/2018)
- For the Applicant (s) : Mirza Mahmood Ahmad, ASC  
(in CMA.1503-L/18)
- For the Applicant (s) : Mr. Sajid Ilyas Bhatti,  
(in CMAs.4823 and 4825/2018) Additional Attorney General assisted by Barrister Minaal Tariq
- For the Petitioner (s) : Mian Abdul Rauf, ASC  
(in Const.P.30/2018)
- For the Petitioner (s) : Barrister Saad Rasool,  
(in Const.P.31/2018) Advocate
- M. Ayub Malik,  
President, National Party
- On Court Notice : Mr. Ashtar Ausaf Ali,

Attorney General for Pakistan  
assisted by Barrister Asad  
Rahim

Mr. Babar Yaqoob Fateh,  
Secretary,  
Election Commission of  
Pakistan

Mr. M. Arshad,  
Director General (Law),  
Election Commission of  
Pakistan

Date of Hearing : 06.06.2018

### **ORDER**

Mr. Shahid Hamid, learned Sr. ASC who appeared on behalf of the Appellant in Civil Appeal No.56-L of 2018 has been heard. The question of the maintainability of the instant appeals against the judgment of the learned Single Bench of the Lahore High Court, Lahore filed in the absence of Intra Court Appeals having been filed in terms of Section 3 of the Law Reforms Ordinance, 1972 is in issue. The question of the locus *standi* of the Appellant, who is the Speaker, National Assembly of Pakistan also needs to be determined.

2. The *lis* in the instant cases primarily revolves around the Nomination Forms for

candidates of the National Assembly and Provincial Assemblies issued in terms of Elections Act, 2017 and the omissions therein when compared with the such Nomination Forms issued in terms of Representation of the People Act, 1976 (ROPA) (since repealed). The adjudication in this behalf requires interpretation of various provisions of the Constitution of the Islamic Republic of Pakistan, 1973 including Articles 62, 63, 218 to 222, therefore, notice is issued to the learned Attorney General for Pakistan in terms of Order XXVII-A CPC.

3. Today, the question of interim relief needs to be examined. On the last date of hearing, while granting leave to appeal, operation of the impugned judgment was also suspended without hearing the opposite side. With regard to the information omitted from the Nomination Papers and Form A & B, as issued in terms of Elections Act, 2017, when examined in *juxtaposition* with the requirement of the Nomination Forms previously in vogue under the ROPA, 1976, it appears that the information, no

longer required to be disclosed, *prima facie*, would facilitate the determination of the qualification or disqualification of a candidate and would lead to greater transparency regarding the credentials of a candidate facilitating the electorate in making a more informative choice.

4. In the above backdrop, on Court query, the learned Sr. ASC for the Appellant stated that neither his client (Speaker of the National Assembly) nor the Political Party to which his client belonged has any objection to the disclosure of said additional information and the leadership of such political party has come on record in this behalf. However, as per his contentions, some of such information previously required in the Nomination Forms is not really necessary. With his assistance, we examined each and every omitted clause of the Nomination Forms issued under ROPA, 1976, The learned counsel, at this stage, could not persuade us that such disclosure in any manner would prejudice any candidate. At best, some information may perhaps be unnecessary or surplus.

5. As an interim measure, we believe that such additional information, which was required to be disclosed through the Nomination Papers & Forms under ROPA, 1976 and now omitted through Nomination Papers contemplated by the Elections Act, 2017 must be disclosed by a candidate. Such disclosure is necessary to ensure the sanctity and integrity of the General Elections, 2018, as if the instant appeals eventually fail, complications in this behalf may arise. The learned counsel for the ECP also supports such interim measures.

6. Mr. Babar Yaqoob Fateh, Secretary, Election Commission of Pakistan present in the Court was directed to prepare a draft Affidavit to be submitted by a Candidate disclosing the requisite information omitted by the Elections Act, 2017. Such draft affidavit was made available and is reproduced herein below, which shall form part of this order:-

AFFIDAVIT BY THE CANDIDATE FOR  
ELECTION TO THE ASSEMBLIES IN GENERAL  
ELECTIONS 2018

I, .....s/o, ..... d/o,  
w/o....., being a candidate for election to the National Assembly  
/ Provincial Assembly of ..... (name of province) from

constituency No..... filed / am filing my nomination papers on .....and in addition to Form A and Form B, I do hereby solemnly affirm and declare to the best of my knowledge and belief that,—

- A. I am registered as a voter at serial number ..... in the electoral roll ..... of ..... electoral area..... of Tehsil/Taluka ..... District .....
- B. No loan for an amount of two million rupees or more is obtained from any bank, financial institution, cooperative society or corporate body in my own name or in the name of my spouse or any of my dependents, or any business concern mainly owned by me or the aforesaid, stands unpaid for more than one year from the due date, or has got such loan written off; and
- C. I, my spouse or any of my dependents or a business concern mainly owned by me or the aforesaid, is not in default in payment of government dues or utility charges, including telephone, electricity, gas and water charges of an amount in excess of ten thousand rupees, for over six months, at the time of filing of nomination paper.
- D. The names of my spouse(s) and dependents are given hereunder which is correct and no name has been left out.

Sr.No.	Name of dependent	Relation with the candidate
1		
2		
3		
4		
5		
6		

*Note-I: Use additional sheet if required.*

- E. Neither I nor my spouse(s) nor any of my dependents mainly owns any business/firm/company except the following:

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**Explanation.**— For the purpose of these declarations, the expression —

- (i) “loan” shall mean any loan, advance, credit or finance obtained or written off on or after the 31<sup>st</sup> day of December, 1985, but shall not include the loan the recovery of which has been stayed or suspended by any order of a court or tribunal, including the High Court and the Supreme Court;
- (ii) “mainly owned” shall mean holding or controlling a majority interest in a business concern;
- (iii) “taxes” include all taxes levied by Federal Government, Provincial Government or a local government, but shall not include taxes the recovery of which has been stayed or suspended by any order of a court or tribunal;
- (iv) “government dues and utility charges” shall, *inter alia*, include rent, charges of rest houses or lodges owned by the Federal Government, Provincial Governments, local governments or corporations established or controlled by such governments, but shall not include the government dues and utilities charges the recovery of which has been stayed or suspended by any order of a court or tribunal.

F. No case of criminal offences was pending against me, six months prior to filing of my nomination papers.

**AND**

The following cases of criminal offences were pending against me, six months prior to filing of this nomination:

Title and number of case	Name of the Court

G. My educational qualification is .....

H. My present occupation is .....

I. My passport number is .....

J. My National tax number, if any, is.....

K. The income tax paid by me during the last three assessment years/ financial years is given hereunder:—

Total Income	*Source of income	Tax Year	Total Income Tax paid

*Note-II: Attach copies of income tax returns of the years mentioned above.  
\*If more than one income resource, attach detail.*

L. Detail in respect of my travel abroad during last three years and cost incurred thereon is as under: (attach complete copy of the passport and detail of expenditure).

Year	Detail of countries visited	Period of stay	Cost Incurred	Remarks

M. The agricultural income tax paid by me during the last three years is given below:

Tax Year	Land Holding	Agricultural Income	Total Agricultural Income Tax Paid

*Note III: Attach copies of agricultural tax returns of the last three years mentioned above or the certificate issued by the authority concerned in this behalf.*

N. Being elected as Member of National Assembly/Provincial Assembly from ..... Constituency No..... in the year(s) ..... I made important contributions for the benefit of my constituency the details of which are as follows:

.....  
.....  
.....  
.....  
.....

O. I have paid a sum of Rs..... by way of contribution to the political party which has awarded me party ticket for this election. (Attach detail, if any).

P. I have received a sum of Rs..... from the party which has awarded me the party ticket (Attach detail, if any).

Q. I shall make all election expenditures out of the money deposited in the exclusive account opened for the purpose detail of which has been mentioned in the nomination form and I shall not make any transaction towards the election expenses through an account other than the above account



R. I have not ceased to be a citizen of Pakistan nor have I acquired or applied for the citizenship of a foreign state

OR

I possess Foreign Passport No..... issued by  
 ..... [name of country(s)].

S. I have no objection if information concerning myself in relation to acquisition of citizenship of foreign State or application of such citizenship is provided by any foreign state to the Ministry of Foreign Affairs of the Government of Pakistan or Election Commission of Pakistan.

T. The detail in respect of my Nets Assets is given as under:

- a. Net assets as on 30<sup>th</sup> June of current Financial Year.....
- b. Net assets as on 30<sup>th</sup> June of previous Financial Year.....
- c. Increase/decrease (a-b).....

U. I acknowledge that failure to give detail regarding any item in respect of Form A and Form B shall render my nomination to contest election invalid or if any information given therein and hereinabove are found incorrect at any time, my election shall stand *void ab initio*.

V. I hereby assure that I shall abide by the Code of Conduct issued by the Election Commission.

Signature of candidate

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Thumb impression of candidate

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National Identity Card No.

Address.....

.....  
 .....

Contact No.

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Dated.....

**VERIFICATION ON OATH**

I, .....  
 S/o,W/o,D/o..... do hereby solemnly declare that, to the best of my knowledge and belief, the above contents of this affidavit are correct and nothing has been concealed therefrom.

Signature of the candidate.....

Date .....

Place.....

Attested by the Oath Commissioner.....

Note: This affidavit is to be provided on stamp paper that will be duly attested by an Oath Commissioner appointed under the Oaths Act, 1873 (X of 1873).

7. All candidates of the National and Provincial Assemblies shall file the said affidavit along with their Nomination Papers. Such

candidates who have already filed their Nomination Papers, shall file the said Affidavit with the Returning Officers by or before 11<sup>th</sup> June, 2018. The Secretary, ECP, has assured us that the aforesaid process will not in any manner upset the schedule of Elections so as to delay of holding of the General Elections on 25.7.2018, as already announced.

8. It is clarified that failure to file such Affidavit before the Returning Officer would render the Nomination Papers incomplete and liable to rejection. If the Affidavit or any part thereof is found false then it shall have consequences, as contemplated by the Constitution and the law. Since the Affidavit is required to be filed in pursuance of the orders of this Court, therefore, if any false statement is made therein, it would also entail such penalty as is of filing a false affidavit before this Court.

9. The draft of the aforesaid Affidavit will immediately be put up by the Election Commission of Pakistan on its official website and communicated to all the Returning Officers. Such

draft Affidavit would also be publicized by the Election Commission of Pakistan in all the leading newspapers and the public will be informed through the Electronic Media in this behalf.

10. Adjournd to a date in the office.

Chief Justice

Judge

Judge

Judge

Islamabad, the  
6<sup>th</sup> June, 2018  
*Safdar/\**

Judge