

IN THE SUPREME COURT OF PAKISTAN
(ORIGINAL JURISDICTION)

PRESENT:

MR. JUSTICE TASSADUQ HUSSAIN JILLANI
MR. JUSTICE MUHAMMAD ATHER SAEED

CONSTITUTION PETITION NO. 32 OF 2013

(Constitutional petition under Article 184 of the Constitution
against the order of Election Commission regarding counting
of all the rejected votes in NA 266, Nasirabad/Jafferabad)

Mir Zafarullah Khan Jamali ... Petitioner

VERSUS

Election Commission of Pakistan and others ... Respondents

For the Petitioner: In person

For the Respondent: N.R.

Date of Hearing: 24.05.2013

ORDER

TASSADUQ HUSSAIN JILLANI, J.- Petitioner in person submits that he is a returned candidate from the National Assembly Seat NA-266 Jafferabad cum Naseerabad, Balochistan; that the Election Commission of Pakistan vide the notification dated 22.5.2013 has already notified the petitioner as a Member of the National Assembly; that on the application of one of the defeated candidates, the Election Commission of Pakistan vide the order dated 22.5.2013 has directed that recounting of rejected votes be carried out and report be submitted to the Commission by 25.5.2013; that the Returning Officer has not so far carried out recounting; that the ex-parte order is unjust, arbitrary and against the law declared by this Court as also by the High Court; that the proper remedy for a defeated candidate after the Elections have been notified was to file an Election Petition under Section 52 of the Representation of the People Act; that a few days prior to the polling day, the Deputy Commissioner and Commissioner,

Naseerabad were transferred on the direction of the Caretaker Government and that petitioner apprehends that after the polling day i.e. between 11.5.2013 and 22.5.2013 the sanctity of the ballot papers may have been compromised.

2. On court query as to why the petitioner has filed the petition directly before this Court under Article 184(3) of the Constitution when he has a remedy of moving the learned High Court, petitioner submitted that he got to know about the order of the Election Commission when he was in Islamabad and there was not sufficient time to move the Balochistan High Court. He adds the he is prepared to withdraw this petition to move the learned High Court but till then the order of the Election Commission of Pakistan dated 22.5.2013 be suspended.

3. Petitioner primarily has voiced an individual grievance. However, in view of the fact that the petition is directed against an ex-parte order and he has leveled serious allegations in the petition, while permitting him to move the learned High Court, we are persuaded to dispose of this petition with the observation that let the petitioner move the proper High Court against the order of the Election Commission of Pakistan within 5 days from today and till 29.5.2013 the order of the Election Commission of Pakistan dated 22.5.2013 impugned herein shall not be given effect to. Disposed of in terms noted above.

JUDGE

JUDGE

Islamabad, the
24th of May, 2013
Not Approved For Reporting
Khurram