

Form No: HCJD/C-121.
ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. 414 of 2022

Mr Masoom Wazir
Vs
The Election Commission of Pakistan

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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08-02-2022. M/s Muhammad Ramzan Ch and Rai Tajammal Hussain, Advocates for the petitioner.

ATHAR MINALLAH, CJ.- The petitioner namely, Masoom Wazir son of Guldar Ali Khan, has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 assailing order, dated 04.02.2022, passed by the Election Commission of Pakistan

2. The petitioner asserts that he was authorized by the political party, Pakistan Tehreek-e-Insaf to file a petition before the Election Commission of Pakistan (hereinafter referred to as the "**Commission**"). The candidate of Pakistan Tehreek-e-Insaf who was contesting the elections for the office of Tehsil Chairman, Baka Khel District Bannu, Khyber Pakhtunkhwa was disqualified by the Commission after the latter's involvement in gross misconduct had been established. The petitioner was not one of the contesting candidates. The Commission vide notification, dated 01.02.2022 ordered re-poll in various

constituencies, including Tehsil Baka Khel District Bannu. The re-poll has been ordered to be held on 13.02.2022.

3. The petitioner challenged the holding of re-polling. It was the case of the latter that instead of re-polling, election schedule should be announced afresh in order to enable Pakistan Tehreek-e-Insaf, to nominate its candidate to contest the elections against the office of Tehsil Chairman. Admittedly, Pakistan Tehreek-e-Insaf is a juridical person and it has not challenged the order whereby re-poll was ordered by the Commission. The petitioner claims that he was authorized by Pakistan Tehreek-e-Insaf to file a petition. The petitioner obviously could not have stepped into the shoes of Pakistan Tehreek-e-Insaf merely on the basis of an authorization. The petitioner had, therefore, challenged the notification, dated 01.02.2022 in his individual capacity. As already noted, the petitioner was not one of the contesting candidates and, therefore, he did not have the locus standi to challenge the order of re-poll. The contesting candidate of Pakistan Tehreek-e-Insaf was disqualified on account of his involvement in acts amounting to gross misconduct. In the facts and circumstances of the case in hand, the Commission was empowered and justified to order a re-poll. The impugned order is reasonable and has been passed by the competent authority vested with jurisdiction.

3. The election schedule had taken effect and due to acts of misconduct by one of the contesting candidates, the polling could not be completed. There is no force in the argument that in such an eventuality, fresh election schedule should have been announced.

4. The impugned order, dated 04.02.2022 does not suffer from any legal infirmity requiring interference by this Court while exercising jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

5. For the above reasons, the petition is ~~is~~ without merit and, therefore, accordingly dismissed.

CHIEF JUSTICE

Asif Mughal/*