

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Justice Qazi Faez Isa, CJ  
Justice Muhammad Ali Mazhar  
Justice Musarrat Hilali

**C.U.O.18/2024 IN C.P.NIL/2024**

(Declaring General Elections 2024 Null  
and Void due to the Flagrant violations of  
Democratic Norms)

Ali Khan

...Petitioner

**Versus**

Government of Pakistan through A.G. Islamabad  
and another

...Respondents

For the Petitioner:

Nemo.

For the State:

Ch. Aamir Rehman, Addl. AGP  
a/w Lt.Col. Kafeel Khan, Director (Legal)  
M/O Defence  
Mr. Akhtar Zaman, SHO Humak

Ono Court's call:

Mr. M. Shahzad Shaukat, ASC.  
(President SCBA)

Date of Hearing:

21.02.2024

**ORDER**

**Qazi Faez Isa, CJ.** On 19 February 2024 the following order was  
passed:

This constitution petition was filed on 12 February 2024 directly in this Court in its original Jurisdiction, under Article 184(3) of the Constitution of the Islamic republic of Pakistan. However, prior to its filing its contents were broadcast on the electronic media and published in the newspapers. The office has raised a number of objections questioning the maintainability of the petition. In view of the fact that the matter pertained to the elections it was fixed in Court to attend to the office objections, and if they were overruled, to hear the petition. After filing of the petition, and having availed of the maximum publicity, an application was submitted by the petitioner stating that the petitioner wants to withdraw his case and the petitioner does not wish to pursue his case any further.

2. The notice of today's date of hearing was issued, however, the process server's report states that when he went to the given address of the petitioner no one answered the front door when he rang the bell and knocked. The report also states that the mobile phone of the petitioner (on the number mentioned in the petition) was called but that too was not answered. We had kept the matter aside and had asked the office to also contact the petitioner on his given mobile phone, but the same was not answered.

3. Whilst ordinarily a petitioner is entitled to withdraw his petition but if a petitioner is to exploit the situation and for publicity, and having achieved this objective seeks to withdraw it without any reason then it is tantamount to the abuse of the process of this Court. This Court will safeguard that, such manipulation does not take place. However, before proceeding further let another opportunity be given to the petitioner to be in attendance on the next date of hearing. Notice be served through the normal process as well as through the concerned SHO. The petitioner had described himself as an ex-Brigadier, therefore, notice be also served upon him through the Ministry of Defence, Government of Pakistan.'

2. Learned Additional Attorney-General for Pakistan ('AGP') states that the representative of the Ministry of Defence went to deliver the notice at the address of the petitioner on 20 February 2024, and according to the report of the Ministry of Defence, the notice was received by Mrs. Amama Sohail, who stated that she was a family member of the petitioner; the receipt of notice by Mrs. Amama Sohail is submitted in original. Notices were also sent through the District and Session Judge, Islamabad, whose report states that the petitioner was not available at the given address. The report of the SHO of the area states that no one answered the outer door of the petitioner's residence, therefore, notice was pasted on it; his report along with the photographs of the pasted notice is received. However, the petitioner is not in attendance nor is represented.

3. The Fixation Branch of this Court has informed that they had received an e-mail dated 19 February 2024, wherein the petitioner stated that '*I am EX-Brigadier Ali Khan*' and that he had sought withdrawal of this petition by filing withdrawal application (CMA No.1211/2024). The e-mail confirms that '*I don't want to pursue the said petition anymore*'. The e-mail concludes by stating that '*I deeply*

*regret any inconvenience I might have caused to the Honourable Supreme Court and seek their pardon for my inability to appear in person as I am currently out of the country. I shall be extremely grateful to the honourable Court for their magnanimity and for their kindness.*’ Copies of the petitioner’s passport with exit from Pakistan stamp of *FIA Immigration* dated 17 February 2024, boarding pass and e-ticket have also been provided by the petitioner. The e-ticket shows that he paid Rs.162,756 on 13 February 2024 for his travel from Islamabad to Doha, Qatar, and for a connecting flight to Bahrain.

4. The learned AGP states that the petitioner cannot refer to himself as an *Ex-Brigadier* because he was court martialled by the Pakistan Army for committing sedition, mutiny and insubordination in the year 2012. He was sentenced to five years rigorous imprisonment and was released after serving out four years of his sentence as he was granted remissions. The learned AGP further states that the petitioner was stripped of his rank, which he can no longer use and the normal benefits which would accrue to a retired officer were not given to him.

5. The President of the Supreme Court Bar Association, learned Mr. Muhammad Shahzad Shaukat, is present in Court and was asked to assist the Court. He submitted that the given facts and circumstances of the case constitutes abuse of the process of the Court and it should be ensured that this should not take place in future and therefore this petition should be dismissed with exemplary costs of one million rupees.

6. The petitioner did not disclose the fact of being court martialled and mentions the rank which he held before being court martialled. He misused the rank which he had previously held in the Pakistan Army which he could not do so. The petitioner must have used his rank to attract publicity and to ensure that the contents of his petition are widely broadcast in the media and published in newspapers. And after having achieved such purpose, the petitioner immediately bought a ticket (on 13 February 2024) to catch a flight out of the country. The usual practice is to buy a return ticket, but the petitioner bought a one-way ticket. He also did not disclose when he will return to Pakistan. The petitioner also did not disclose

the reason for his sudden departure from Pakistan nor why he had to go to Bahrain. It is also not disclosed why, just one day after filing the petition, he sought its withdrawal. The petitioner's conduct demonstrates that he wants to undermine the credibility of constitutional bodies, which is neither in the citizens nor in the country's interest.

7. This petition has also consumed valuable court time, which is to be spent on deciding the cases of genuine litigants; not use the media for ulterior and nefarious purposes. The petitioner got prominent coverage and then the petition was abandoned and the petitioner left the country. Responsible media will undoubtedly want to disclose this order and the petitioner's conduct to redress the damage done.

8. The application for withdrawal of the petition (CMA No.1211/2024) is allowed and the petition (C.U.O.No.18/2024) is dismissed as withdrawn with costs of five hundred thousand rupees which are directed to be paid equally to the Pakistan Bar Council and to the Supreme Court Bar Association within thirty days, failing which they be recovered from the petitioner as arrears of land revenue. We trust that the Government of Pakistan will be ensuring that the petitioner does not use the rank of a *Brigadier* or *Ex* or *former Brigadier* with his name.

Chief Justice

Judge

Judge

ISLAMABAD  
21 February 2024  
Not approved for reporting  
Mudassar/\*

Approved for Reporting