

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE YAHYA AFRIDI  
MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI  
MR. JUSTICE SYED HASAN AZHAR RIZVI

**CIVIL PETITION NO. 173-Q OF 2023**

(On appeal against the judgment dated 12.05.2023  
passed by the High Court of Balochistan, Quetta in  
C.P. No. 1916/2022)

Abdul Nafey

... Petitioner

**Versus**

Muhammad Rafique and others

... Respondents

For the Petitioner:

Mr. Kamran Murtaza, Sr. ASC

For the Respondent (1):

Mr. Muhammad Rafique, in person  
(Via video link from Quetta)

For the Respondent (2):

Mr. Ayaz Khan Swati, Addl. A.G.  
Balochistan

For Respondents (3-5):

Mr. Muhammad Arshad, D.G. (Law), ECP  
Mr. Falak Sher, Legal Consultant, ECP

Date of Hearing:

09.08.2023

**JUDGMENT**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J.-** Through this petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed the judgment dated 12.05.2023 passed by the learned High Court of Balochistan, Quetta whereby the Constitutional Petition filed by the petitioner was dismissed and the order of the learned Election Tribunal/Appellate Authority, District Chaman was upheld.

2. Briefly stated the facts of the case are that to contest the Local Bodies Elections as a Ward Member, the petitioner submitted his nomination papers from Ward No. 15, Municipal Corporation, Chaman, which were accepted by the Returning Officer vide order dated 25.04.2022. The respondent No. 1, who was also contesting elections from the same constituency, challenged the acceptance of nomination papers of the petitioner on the

ground that the petitioner's age is less than 21 years and as per Section 24(b) of the Balochistan Local Government Act, 2010, he is not qualified to contest the election but the same was not entertained. The respondent No. 1 filed an appeal before the District & Sessions Judge, Chaman/Election Tribunal/Appellate Authority but the same was dismissed vide order dated 30.04.2022. The main ground urged by the petitioner before the Appellate Authority was that although according to CNIC he is underage to contest the elections as his date of birth has been mentioned as 01.01.2002 but according to his school record his date of birth is 05.02.2000, therefore, he was above 21 years of age at the time of filing of the nomination papers. Eventually, the elections were held on 29.05.2022 wherein the petitioner was declared to be the returned candidate and a notification to this extent was issued on 22.06.2022. In the meantime, the respondent filed Constitutional Petition No. 925/2022 before the learned High Court against the order of Appellate Authority but the learned High Court vide order dated 16.06.2022 directed him to again approach the Appellate Authority for redressal of his grievances. Thereafter, the respondent No. 1 again approached the District & Sessions Judge/Election Tribunal Chaman, who accepted the Election Petition and set aside the notification dated 22.06.2022 whereby the petitioner was declared as returned candidate. The petitioner then filed Constitution Petition No. 1916/2022 before the learned High Court of Balochistan, Quetta but the same has been dismissed vide impugned order. Hence, this petition seeking leave to appeal.

3. At the very outset, learned counsel for the petitioner submitted that earlier the CNIC on which the respondent was relying has been corrected by NADRA according to the school record of the petitioner and this correction had already been made while the matter was pending before the learned High Court but the learned High Court did not take into consideration this aspect of the matter.

4. On the other hand, learned Additional Advocate General Balochistan, the respondent No. 1 who appeared in person and the Law Officers of the Election Commission of Pakistan have defended the impugned judgment.

5. We have heard the learned counsel for the parties and have perused the available record with their able assistance.

6. There is no denial to this fact that on the last date of filing of the nomination papers i.e. 21.04.2022, the date of birth of the petitioner according to his CNIC was 01.01.2002 meaning thereby that he was about 20 years of age. In this view of the matter, the learned High Court has rightly declined to provide relief to the petitioner by placing reliance on Section 24(1)(b) of the Balochistan Local Government Act, 2010. For the ease of reference, the relevant provision is reproduced as under:-

**“24. Qualifications for candidates and elected members.**(1) A person shall qualify to be elected or to hold an elective office or membership of a local council, if he-

(b) is not less than twenty one years of age on the last day fixed for filing the nomination form”

7. So far as the argument of learned counsel for the petitioner that according to school record of the petitioner, his date of birth was 05.02.2000 and he was above 21 years of age is concerned, the same is of no help to the petitioner because nowhere in the Balochistan Local Government (Election) Rules, 2013, it is mentioned that the date of birth of a candidate will be considered as per his school record. On the contrary, a bare reading of Section 13 of the said Rules shows that any person whether he is a candidate, a proposer or a seconder must have Computerized National Identity Card to meet the requirements mentioned in the Act & Rules, which means that the credentials of a person on the CNIC would be given preference. It would be advantageous to reproduce the relevant portion of the said Rules, which reads as under:-

**“13. Nomination for election.---**

(1) .....

(2) Any voter of a ward who is in possession of Computerized National Identity Card (CNIC) may propose or second the name of any duly qualified person who is also in possession of Computerized National Identity Card (CNIC) to be a candidate from that ward.”

8. It is settled law that when meaning of a statute is clear and plain language of statute requires no other interpretation then intention of Legislature conveyed through such language has to be given full effect. Plain

words must be expounded in their natural and ordinary sense. Intention of the Legislature is primarily to be gathered from language used and attention has to be paid to what has been said and not to that what has not been said. Reliance is placed on Government of KPK Vs. Abdul Manan (2021 SCMR 1871) and JS Bank Limited Vs. Province of Punjab through Secretary Food, Lahore (2021 SCMR 1617). Learned counsel for the petitioner put much stress on the point that the correction in the CNIC had already been made while the matter was pending before the learned High Court. However, on our specific query, he admitted that he sought correction in the NADRA record after the election schedule had been announced. In this eventuality, a right had accrued in favour of the contesting candidates, which cannot be taken away without any cogent reason. Learned counsel could not convince us as to when on the date of filing of nomination papers the petitioner was not qualified, how can the defect be cured later on. Even otherwise, while seeking such an alteration/correction in the date of birth, a declaration is *sine qua non* which can only be issued by the Civil Court of competent jurisdiction on the basis of evidence produced during the proceedings regarding the authenticity of the subject matter. Reliance is placed on Muhammad Khalid Mandokhail Vs. Government of Balochistan (2021 SCMR 595) and Shahid Ahmed Vs. OGDCL (2015 PLC (CS) 267).

9. For what has been discussed above, this petition having no merit is accordingly dismissed and leave to appeal is refused. The above are the detailed reasons of our short order of even date.

JUDGE

JUDGE

JUDGE

Islamabad, the  
9<sup>th</sup> of August, 2023  
Approved For Reporting  
**Khurram**