

ORDER SHEET  
**LAHORE HIGH COURT, LAHORE**

JUDICIAL DEPARTMENT

**Election Appeal No.356-A/2018**

Saud Majeed

Vs

Returning Officer etc.

S.No. of Order/ Proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary
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07.11.2018 Mr. Khalid Ishaque, Advocate for the appellant.  
Mr. Imran Arif Rnjha, Legal Advisor for Election  
Commission of Pakistan alongwith Hafiz Adeel Ashraf,  
Assistant Law Officer on behalf of respondents  
No.1 and 3.  
Mr. Khurram Shahbaz Butt, Advocate for respondent  
No.2.

This Election Appeal under Section 113 of the  
Elections Act, 2017 has been filed against the order dated  
03.11.2018 passed by the Returning Officer for Senate  
Bye-Elections-2018 whereby objection petition filed by  
Saud Majeed (hereinafter referred as appellant) was  
dismissed and nomination paper of Walid Iqbal  
(hereinafter referred as respondent No.2) for Senate  
Bye-Elections-2018 for General Seat from Province of  
Punjab was accepted.

2. Brief facts are that respondent No.2 filed  
nomination paper for Senate Bye-Elections-2018 for  
General Seat from Province of Punjab, against which, the  
appellant filed objection petition. The Returning Officer  
after hearing both the parties dismissed the objection  
petition and accepted the nomination paper of respondent  
No.2 vide order dated 3.11.2018 (hereinafter referred as  
impugned order). Hence, this Election Appeal.

3. Learned counsel for the appellant has contended  
that respondent No.2 has not disclosed his assets and also

concealed required information in his nomination paper, in support of his contention he has referred Page-7 of the nomination paper i.e. Form-B (**Statement of Assets and Liabilities**), submitted by respondent No.2, and pointed out that against Sr. No.1(b) **“Immovable Property Held outside Pakistan”** respondent No.2 has referred **Annexure B** attached with his nomination paper, which reflects that respondent No.2 has not mentioned any immovable property outside Pakistan. He has also referred Sr. No.2(b) and stated that respondent No.2 was required to provide the details of **“Business Capital outside Pakistan”**, however, respondent No.2 has opted to strike through the word **“outside”** and himself amended it as **“within”** in order to conceal the true statement of affairs. He has also submitted that at Page-8 of nomination paper in Sr. No.2(k) in column-2 i.e. **Cost of Asset**, respondent No.2 has written the words **“Not Applicable”** and thus cost/amount of said trust has been concealed. In support of his contention he has referred case of **“Muhammad Hanif Abbasi Versus Jehangir Khan Tareen”** (PLD 2018 SC 114) and prayed for setting aside impugned order passed by the Returning Officer and also prayed for rejection of nomination paper of respondent No.2.

4. Learned counsel for respondent No.2 while replying to aforementioned contention qua Sr. No.1 (b) submitted that since small space is available in said column, which is not sufficient for providing full details, hence, for want of space respondent No.2 draw a bracket against both sub-columns of said column and provided required details of immovable property held by him, his spouse and dependent children through annexure B. He further submitted that since no such immovable property

is being held outside Pakistan, hence no such detail has been provided.

In reply to contention regarding Sr. No.2(b), learned counsel for respondent No.2 has submitted that since sufficient space is not available to mention details of business capital within Pakistan against sub column i.e. 2(a), hence in sub column 2(b) word **“outside”** was cut and word **“within”** was written, and complete detail qua business capital within Pakistan was provided by using whole space available against both sub-columns. He further adds that since there was no such business capital outside Pakistan, hence there was nothing to be mentioned against sub column 2(b), so space available against said sub column was used for providing detail of business capital within Pakistan by cutting the word **“outside”** and mentioning the word **“within”**.

While replying to contention qua mentioning the words **“Not Applicable”** by respondent No.2 in column-2 of Sr. No.2 (k), learned counsel for respondent No.2 has added that it is not fatal for nomination paper because it is supplemented by the copies of **statement of assets and liabilities of dependent children submitted before the Federal Board of Revenue**, which have been annexed with nomination paper of respondent No.2 as Annexures E/3, E/4, E/5. He also submitted that case of **“Muhammad Hanif Abbasi Versus Jehangir Khan Tareen”** (*supra*) is not applicable in the instant case and referred page 144 of the said judgment, relevant portion is being reproduce below: -

***OFF-SHORE COMPANY-TRUST (Proposition No.2):***  
*(That respondent No.1 has publically admitted that his children own off-shore company for conducting business and holding properties in United Kingdom coupled with fact that he receives huge sums*

*of money from his children thus demonstratively making him the beneficial owner of the business and properties in United Kingdom which he has failed to disclose in his tax returns or in the statements of assets and liabilities before Election Commission of Pakistan thus making him not qualified to contest the election of, or being a member of Parliament by virtue of the provisions of Article 62(1)(f) of the Constitution of Islamic Republic of Pakistan).*

He also added that in the instant case, respondent No.2 has clearly mentioned NWI Family Trust in his nomination paper, which fact is also mentioned by his dependent children in their **statements of assets and liabilities, submitted before the Federal Board of Revenue**, hence facts of the case of “**Muhammad Hanif Abbasi Versus Jehangir Khan Tareen**” (*supra*) are not identical to the case in hand, thus not applicable.

Learned counsel for the official respondents has supported the impugned order.

5. Arguments heard. Record perused.

6. It has been found that objection with regard to drawing a bracket against sub-columns (a) and (b) of column 1 of Form-B at Page-7 of the nomination paper for the purpose of writing immovable property has not resulted any defect of **substantial nature** as mentioned in Section 112(6)(d)(ii) of the Elections Act, 2017 and it has also not made **statement** submitted by respondent No.2 as false or incorrect in any **material particular** as mentioned in Section 112(6)(c) of the Elections Act, 2017.

This is not the case of appellant that respondent No.2, his spouse and dependent children have some immovable property outside Pakistan and respondent No.2 has not mentioned the same in column No.1(b) of

Form-B and even otherwise appellant could not point out or bring on record any material to show any such immovable property held outside Pakistan by them, hence this objection is holding no water and thus rejected.

It has also been observed that it is not the case of appellant that respondent No.2, his spouse and dependent children held any business capital outside Pakistan and even otherwise no material regarding such business capital outside Pakistan could be pointed out or brought on record by the appellant, hence objection in this regard qua cutting word “outside” in Serial No.2(b) of Form B and mentioning the word “within” there, also does not hold water, particularly, when said cutting and adding the words was only done to use space available against said sub column in order to mention detail of business capital within Pakistan. This cutting and adding of word neither has resulted any defect of substantial nature nor made statement of respondent No.2 as false or incorrect in any material particular. So this objection is also rejected.

7. As far as third and last objection qua mentioning of words “Not Applicable” in Serial No.2 (k) at Page-8 of the nomination paper in the column of ***Cost of Asset*** is concerned, it comprises upon two questions; ***first question*** is to analyze that whether by mentioning so, statement submitted by respondent No.2, has become false or incorrect in any ***“material particular”*** within the meaning of Section 112 (6)(c) of the Elections Act, 2017? ***Answer*** is very simple that if by mentioning cost of trust, respondent No.2 was going to be disqualified for contesting election, then of course, it makes statement submitted by respondent No.2 as false or incorrect in ***“material particular”*** and resulting defect of substantial nature but

learned counsel for the appellant could not point out that by mentioning “Not Applicable”, how, respondent No.2 has avoided any disqualification and if he had mentioned cost there, then how it could have been fatal for his nomination paper and in this regard, reference can be had to case of *“Murad Bux Versus Karim Bux and others”* reported in 2016 SCMR 2042 and case of *“Syed Fida Hussain Shah Versus Election Appellate Tribunal and others”* reported in PLD 2018 Lahore 788. So nutshell is that by mentioning words “Not Applicable” in relevant column of Serial No.2(k) at the relevant space meant for cost/amount of asset/trust neither makes said statement submitted by respondent No.2 as false or incorrect in any material particular nor constituting any defect of substantial nature justifying rejection of nomination paper.

**Second question** in this regard, which is of vital importance, is that either respondent No.2 has suppressed or not given cost/amount/value of NWI Trust while submitting his nomination paper? **Answer** is very simple that respondent No.2 has not suppressed the same and in this regard Serial No.2(k) available at Page-8 of nomination paper requires reproduction here: -

ASSET	COST OF ASSET	REMARKS
1	2	3
(k) <u>Any other assets</u> NWI Family Trust (U.K)	Not Applicable	Beneficial ownership of three minor children in equal shares for the sake of completeness, copies of statement of assets and liabilities of Walid Iqbal, spouse Syeda Nuna Humaira Rafique, and children Shamsheer Iqbal, Saif Iqbal and Inara Iqbal, as on 30 June 2017, as filed with the Federal Board of Revenue, are attached hereto as Annexures E/ 1, E/2, E/3, E/4 and E/5.

Now Perusal of Annexures E/3, E/4 and E/5 (which are statements of Assets and Liabilities filed by Shamsher Walid Iqbal, Saif Murad Walid Iqbal and Inara Munir Bano Rania Iqbal respectively before the Federal Board of Revenue) reveals that at Page-2 of each statement (which are Page No.28, 31 and 34 of the nomination paper filed by respondent No.2) under the heading of Personal Assets/Liabilities, in the column of Description, it has been expressly mentioned in the category of Any Other Asset – 1/3 SHARES – NWI FAMILY TRUST (U.K.), Code is mentioned as 7013 and amount of the same has been mentioned as ‘0’, for ready reference said entry is hereby reproduced: -

Personal Assets/Liabilities				
Description	Code	Amount		
Household Effect	7010	0	0	0
Any other Asset	7013	100,000	0	0
Any other Asset-FURNITURE & FIXTURES: EXPEDITORS INTERNATION (PVT) LTD. (GIFT FROM GRANDFATHER)	7013	0	0	0
Any Other Asset – 1/3 SHARES NWI FAMILY TRUST (U.K)	7013	0	0	0
Any Other Asset-EFU LIFE INSURANCE	7013	100,000	0	0

The above said fact also stands mentioned in Annexures E/4 (Page 31 of the nomination paper) and E/5 (page 34 of the nomination paper). Hence, cost/amount of said trust i.e. NWI Family Trust U.K. has not been suppressed by respondent No.2 rather disclosed through aforementioned annexures E/3, E/4 and E/5. So, in the light of above discussion, this objection is also rejected.

8. One may not lose sight of the fact that scrutiny of the nomination paper is summary inquiry and further niceties on the subject can be examined through Election Petition provided under Section 139 of the Elections Act, 2017.

9. With utmost respect, it is being observed that facts of case reported in case of “Muhammad Hanif Abbasi

***Versus Jehangir Khan Tareen***” (PLD 2018 SC 114) are not identical to the facts of instant case.

10. Resultantly, Election Appeal in hand is hereby dismissed.

**(Farooq Haider)**  
Judge

*Naeem*

*Approved for reporting*

*JUDGE*