

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, CJ
MR. JUSTICE GULZAR AHMED
MR. JUSTICE SH. AZMAT SAEED

CONSTITUTION PETITION NO.31/2011, 45/2007,
111 & 123/2012.

Imran Khan.	(in Const.P.31/2011)
Mohtarma Benazir Bhutto.	(in Const.P.45/2007)
Syed Munawar Hassan and others.	(in Const.P.111/2012)
Saleem Zia.	(in Const.P.123/2012)
... Petitioners.	

VERSUS

Election Commission of Pakistan and others.	(in Const.P.31/2011)
Chief Election Commissioner of Pakistan.	(in Const.P.45/2007)
Federation of Pakistan and others.	(in Const.P.111 & 123/2012)
... Respondents.	

For the petitioner: (in Const.P.31/2011)	Mr. Hamid Khan, Sr. ASC Mr. Waqar Rana, ASC
For the petitioner: (in Const.P.45/2007)	Mr. Jahangir Badar, Secretary General, PPP
For the petitioners: (in Const.P.111/2012)	Mr. Rashid A. Rizvi, Sr. ASC
For the petitioner: (in Const.P.123/2012)	Dr. M. Shamim Rana, ASC
For Election Commission:	Mr. Dil Muhammad Alizai, DAG
For NADRA:	Nemo.
Date of hearing:	21.11.2012

ORDER

Mr. Hamid Khan, learned Sr. ASC appearing in Const.P.31/2011 has drawn our attention towards the para 1 of the order dated 4.7.2011, which is reproduced herein below:-

“Mr. Ishtiaq Ahmed, Secretary, Election Commission of Pakistan stated that:-

(i) In view of the report of NADRA following categories of unverified voters have been removed from the database of NADRA:-

<i>Category of unverified Voters</i>	<i>Voters Count</i>
<i>Voters without any Identity Number</i>	<i>15,028,808</i>
<i>Voters with Invalid CNIC</i>	<i>2,140,015</i>
<i>Voters with Duplicate CNIC entries</i>	<i>2,491,090</i>
<i>Voters with Duplicate MNIC entries</i>	<i>6,469,310</i>
<i>Voters with MNIC not registered with NADRA</i>	<i>11,056,775</i>
<i>Total Unverified Voters:</i>	<i>37,185,998</i>

(ii) In the place of above removed voters, 36 million voters have been entered into the database and verification of both the categories is to be carried out by visiting/approaching the house of each voter by the representative of the Election commission door to door. This exercise shall commence from 18th of July, 2011 and is likely to be completed on 16th of August, 2011. He added that further procedure of publishing/displaying these lists shall be carried out according to law and in this respect, a comprehensive plan has already been chalked out, copy of which has been placed on record. According to him, the whole process is likely to be completed by 16th of December, 2011 and thereafter the lists shall be handed over to NADRA for scanning and printing;

(iii) As far as objection of the learned counsel for the petitioner about pasting photographs of the voters is concerned, the Secretary explained that it has been decided that the photographs of the voters available with the NADRA shall be pasted on the copy of the electoral list, which shall be available with the Presiding Officer only at the time of polling for security reasons and to protect privacy of voter;

(iv) In respect of the objection with regard to showing permanent address of the voters, the Secretary explained that in this behalf a proforma has been prepared allowing the voter to exercise his/her option of vote either at the permanent place of residence or where he/she is

temporarily residing because of his/her place of job, etc. The option he/she opts to exercise, shall be printed in the voters' list;

(v) The Election Commission of Pakistan shall ensure that a person can exercise his right to franchise only at one place so to avoid duplication either by himself or by proxy, etc;

(vi) The Secretary also informed that the Election Commission of Pakistan has in principle decided that electronic voting machine shall be used in future. However, after deliberations and taking into confidence all the stake holders, electronic voting machine will be used."

He contended that according to the credible information Election Commission failed to touch 100% voters, while revising the Voter's lists, as per commitment of the Secretary, Election Commission made in the above said order and it can safely be said that only 10% voters, were approached by the Electoral Staff.

2. Mr. Rashid A. Rizvi, learned counsel appearing in Constitution Petition No.111/2012 has supported the plea raised by Mr. Hamid Khan, learned Sr. ASC and highlighted that it would not be possible at this stage when the General Elections are likely to be held in the near future to revise all the electoral lists. However, while examining the objection of Mr. Hamid Khan he stated that at present a classical example of Karachi can be quoted where a good number of voters en-bloc have been shown to be the voters of the different parts of the country, although they are/were residing for the last about more than 10/15 years in Karachi and had cast their votes there during the elections held in 2008 etc. He stated that this Court in the case

Worker's Party Pakistan v. Federation of Pakistan (PLD 2012

SC 681), has observed as follows:-

“67. Fair, free, honest and just elections are *sine qua non* for strengthening of democracy. To achieve this goal, accurate preparation/revision of electoral roll is immediately required to be undertaken by the Election Commission through credible and independent agencies. In so doing, the conventional ways and means of merely depending upon NADRA alone or other similar bodies must be discounted forthwith. Accordingly, we direct the Election Commissioner to undertake door-to-door checking of voters' lists and complete the process of updating/revision of the electoral rolls by engaging Army and the Frontier Corps, if need be. This exercise should be undertaken as early as possible and in accordance with the time limit fixed in Imran Khans' case (supra).”

3. Dr. M. Shamim Rana, learned counsel appearing in Constn. Petition No.123/2012 also raised an identical complaint and to demonstrate his plea has placed on record relevant material through CMA No.4830/2012, a perusal whereof indicates that the plea raised by Mr. M/s Hamid Khan and Rashid A. Rizvi, learned counsel is correct. He has gone through the documents/electoral lists which he has presented before us to demonstrate that a good number of votes of the residents of Karachi have been shifted to Mansehra, Attock etc.

4. Mr. Jehanghir Badar, who is appearing in Const. Petition No.45/2007 has also supported the contentions which have been raised by the learned counsel for the petitioners and has requested that an appropriate order be passed for the rectifying/correction in the Electoral Lists in Karachi.

5. Before the commencement of the proceedings, Mr. Khalid Anwar, learned Sr. ASC, who was appearing in another important

matter, also pointed out similar complaints in respect of the electoral lists at Karachi and prayed that an order be passed directing the Election Commission to rectify/correct the electoral lists in Karachi, as without the consent of the voters, the names of a large number of people have been shifted from Karachi to other town/cities of Pakistan.

6. The learned DAG present on behalf of Election Commission, when confronted with the above complaints/situation stated that he needs some time. His request is entertained. However, in the meanwhile, copy of this order be sent to the Secretary, Election Commission so that he may depute a Senior Officer alongwith the learned DAG to appear in the Court to satisfy us as to under what circumstances, the names of about more than three million voters have been shifted from Karachi to other towns/cities of Pakistan. In the meanwhile, as there are credible complaints, the Election Commission, subject to all just exceptions may also examine the possibility of reversing the names of the voters back to Karachi where their names were previously recorded leaving an option with such voters to transfer of their votes if they so desired to any other town/city of the Pakistan, by making a request to the respective representative of Election Commission of Pakistan before the announcement of the schedule of elections.

7. Adjourned for tomorrow i.e. 22.11.2012

Chief Justice

Judge

Judge

Islamabad, the
21st November, 2012.

*M. Safdar Mahmood/**