

Form No: HCJD/C-121
ORDER SHEET
IN THE LAHORE HIGH COURT
BAHAWALPUR BENCH BAHAWALPUR
JUDICIAL DEPARTMENT

Case No: Writ Petition No.9641 of 2016

Sh. Dilshad Ahmad etc.

Versus

Additional District Judge 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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20.12.2016 Mr. Muhammad Nawazish Ali Pirzada, Advocate for the petitioner.
Mr. Muhammad Umair Mohsin, Advocate for respondent No.3.
Mian Azhar Husain Pirzada, Advocate/Law Officer for Election
Commission of Pakistan.

Through this writ petition, the petitioners have challenged the vires of orders dated 15.12.2016 passed by learned Additional District Judge/Appellate Authority, Bahawalpur and dated 9.12.2016 passed by the Returning Officer Zila Council, Bahawalpur whereby nomination papers of respondents have been accepted.

2. Briefly stated, the facts of instant case are that petitioners are voters members of District Council, Bahawalpur who submitted their nomination papers for the elections of Chairman along with joint candidates on 09.12.2016 while respondents Nos.3 to 5 also submitted nomination papers for the said seats, Returning Officer accepted nomination papers of respondent No.3 despite the fact that respondent No.3 was not eligible to contest elections being less than the age of 25 years and that there were inconsistencies in the statement of assets and liabilities provided by respondent No.3, whereby the petitioners filed an appeal before the learned Additional District Judge/Appellate Authority, Bahawalpur, who dismissed the appeal vide judgment dated 15.12.2016.

3. Learned counsel for petitioners contends that the impugned orders are against law, void and without lawful authority while respondent No.3 concealed the actual facts and it has been failed to be appreciated that respondent No.3 was elected on special seat of youth member, therefore, he could not contest the election and his age as per his National Identity Card is 23 years. It has also been argued that the Returning Officer committed material irregularity by accepting nomination papers of respondents.

4. On the other hand, this petition has been vehemently controverted by the learned counsel for Election Commission of Pakistan as well as for respondent No.3 with the prayer to dismiss the same.

5. I have heard the learned counsel for the parties at length and perused the file.

6. A careful scrutiny of the record has disclosed that respondents Nos.3 to 5 submitted their nomination papers for the elections on seats of Chairman and Vice-Chairman of Zila Counsel, Bahawalpur and it is also an admitted fact that Muhammad Abdullah/respondent No.3 son of Malik Manzoor Ahmad has previously been elected as youth member and it has not been disputed that age of respondent No.3 as per his CNIC is less than 25 years. In order to substantiate his arguments, learned counsel for petitioners has referred to Section 27 of the Punjab Local Government Act, 2013 by arguing that as respondent No.3 was less than 25 years of age on the last date of filing of nomination papers, therefore, he is not eligible to contest

election and learned Additional District Judge/Appellate Authority, Bahawalpur has committed illegality. However, to reach the just conclusion, relevant part of Section 27 is reproduced hereunder:-

27. Qualifications and disqualifications for candidates and elected members.—

(1) A person shall qualify to be elected as a member or to hold an elected office of a local government, if he-

(a) is a citizen of Pakistan;

(b) except the youth member, is not less than twenty five years of age on the last day fixed for filing the nomination papers; and

(c) is enrolled as a voter in the electoral rolls of the ward or the local government from which he is contesting the election.”

7. It is unfolded from the bare perusal of aforesaid provisions of law that a person shall qualify to be elected or to hold an elected office of local government if he is not less than 25 years of age on the last date fixed for filing of nomination papers. However, in respect of youth member, there is a deviation and that the word “except” has been used in clause (b) of Section 27 of the Act (ibid) which gives understanding that a person shall qualify to be elected or to hold an elected office of a local government except the youth member who is not less than 25 years of age on the last date of filing the nomination papers and if a candidate is youth member, the legislation has given him concession to contest election even if he is less than 25 years of age.

8. Viewing this aspect from another angle, Section 27(c) of Punjab Local Government Act, 2013 has also provided that a person is qualified to be elected as a member or to hold an elected office of a local government if he is enrolled as a voter in the electoral rolls of the ward of the local government from which is contesting election, thus, there is no ambiguity that as per dictates of Section 27 of the Act (ibid), respondent No.3 can contest election for the office of Vice-Chairman of District Council, Bahawalpur against which he has submitted nomination papers while his age i.e. 23 years cannot be considered an embargo restraining him from contesting election being youth member. The contention of learned counsel for petitioners is also that there are discrepancies in statement of assets, however, this ground having been argued has not been substantiated with record. The nomination papers of respondents Nos.3 to 5 have validity been accepted by the Returning Officer and similarly no illegality has been found in the orders passed by both the forums below.

9. For the foregoing reasons, this petition fails, hence the same is **dismissed.**

(HABIB ULLAH AMIR)
JUDGE

Approved for reporting

JUDGE

