

**BEFORE MR. JUSTICE (RETD.) FAZAL-E-MEERAN
CHAUHAN, INDEPENDENT ADJUDICATOR, PAKISTAN
CRICKET BOARD, QADAFI STADIUM, LAHORE**

Appeal No. _____/2019

Murad Baksh son of Muhammad Ismail, Candidate
for President, Regional Cricket Association, C/o
Delta School, Taleemi Chowk, Turbat.

Appellant

Versus

1. Deputy Election Commissioner, Pakistan
Cricket Board, Lahore.
2. Shah Dost, President Regional Cricket
Association, Quetta.
3. Muhammad Ashraf Khan, Secretary Regional
Cricket Association, Quetta.

Respondent

**APPEAL UNDER ARTICLE 37 OF THE CONSTITUTION
OF PAKISTAN CRICKET BOARD, AGAINST
NOTIFICATION DATED 28-01-2019 PASSED BY THE
DEPUTY ELECTION COMMISSIONER, PAKISTAN
CRICKET BOARD.**

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JUDGMENT:

1. Brief facts of the case are that THE Deputy Election Commissioner, Pakistan Cricket Board, vide his letter dated 17-12-2018 announced the election schedule for the Seats of President and Secretary and Treasurer, RCA, Quetta and the contesting candidates were asked to file their nomination papers till 24-12-2018. Last date for filing objections on the nomination papers was fixed as 26-12-2018. Voters list was also circulated on 24-12-2018 along with the name of candidate for the office of President and Secretary, RCA, Quetta. Appellant, respondent Shah Dost and two others filed their nomination papers. Objections on the candidature of Shah Dost were filed by the appellant Murad Baksh to the effect that Shah Dost election as President, District Cricket Association, Turbat was illegal, therefore, he



cannot contest for the office of President, Regional Cricket Association, Quetta. Shah Dost filed reply to the objections raised before the Deputy Election Commissioner, PCB, Lahore. He along with his reply filed his notification of President, Turbat dated 16-10-2017. He admitted that he was employed as Junior Clerk with Fishery Department, Balochistan and submitted his resignation to Fishery Department, Balochistan and his resignation was accepted by Director General, Fisheries, Balochistan on 21-8-2017. The Deputy Election Commissioner after conducting an inquiry allowed respondent No. 2 Shah Dost to contest the election of DCA, Turbat and he was elected and notification was issued on 16-10-2017.

It is argued by the counsel for the appellant that the order of the learned Deputy Election Commissioner is illegal, against law and facts of

the case. It is further argued that the election schedule of DCA, Turbat was announced on 08-8-2017. According to the schedule, 17-8-2017 was last date of filing of nomination papers. 21-8-2017 was last date of filing of objections against candidates. 23-8-2017 reply _____ of objections. 25-8-2017, Scrutiny of nomination papers / hearing of objections. 05-9-2017, Decision of objections and issuance of provisional list of candidates. 12-9-2017 Last date of withdrawal of candidature. 19-9-2017, Last date of filing of appeal before PCB against the decision of Deputy Election Commissioner and 23-9-2017 was polling day at 10.00 a.m. Cricket House, Turbat.

Argued that Abdul Ghani candidate for office of President, DCA, Turbat filed objections before the Deputy Election Commissioner, PCB that Shah Dost is a government servant and cannot contest the election for President,



District Cricket Association, Turbat, However, Shah Dost managed to get a letter dated 21-8-2017 from Fishery Department, Balochistan that Shah Dost had submitted his resignation with the request to accept his resignation w.e.f. 01-7-2017 to 31-7-2017 and Director General, Fisheries, Balochistan accepted the resignation of Shah Dost w.e.f. 01-7-2017 to 31-7-2017. Shah Dost was elected President of DCA, Turbat and notified on 16-10-2017 by Deputy Election Commissioner, PCB.

It is argued that admittedly Shah Dost was an employee of Fishery Department, Quetta, Balochistan on 08-8-2017, when the Schedule for the election of DCA, Turbat was announced. He was government servant on 17-8-2017 when nomination papers were filed and objections on his candidature were filed by one Abdul Ghani a contesting candidate before the Deputy Election Commissioner,

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PCB, Lahore. Shah Dost produced letter dated 21-8-2017 of Fishery Department, Balochistan to show that he had resigned from his job. It is argued that date of resignation is not mentioned in the letter dated 21-8-2017. Argued that Shah Dost submitted his Nomination Form on 12-8-2017. He had declared on oath that he is not a Government Servant. This declaration was factually incorrect. The resignation is not produced before Deputy Election Commissioner, to show when he resigned. The letter dated 21-8-2017 of Fishery Department, Balochistan is silent about the date of resignation. Argued that Shah Dost was a government servant on 08-8-2017, when Election Schedule was announced and on 12-8-2017 when he submitted Nomination Form. He was not eligible to contest the election in view of Clause (j) Article 10 of Pakistan



Cricket Board Election Regulations, 2015. Argued that it is further mentioned in Clause (j), that **"in case it come to knowledge of the Board that office bearer was a Government Servant at the time of his election and had cancelled this fact he would stand disqualified from holding his office and / or denotified."**

By referring to this clause it is argued that Shah Dost was a Government Servant on 16-8-2017 and 17-8-2017 and 21-8-2017, when objection was field he as per letter dated 21-8-2017 submitted his resignation to be accepted from a back date i.e. w.e.f. 01-7-2017 to 31-7-2017. Argued that since no date of resignation is mentioned in any of the document submitted by Shah Dost. No copy of the resignation submitted to the Fishery Department was produced. Argued that resignation is always submitted with



immediate effect or from any date in future. Argued that there is no resignation for one month. Further argued that the resignation from a back date for the period of which Salary was received by Shah Dost. Argued that Last Pay Certificate, certified that Shah Dost was paid salary upto 31-8-2017. Finally argued that resignation submitted is not produced before the Deputy Election Commissioner, PCB. Shah Dost of his own showing was in service on 08-8-2017 and on 21-8-2017, thus was illegal got elected and later on was elected as President of RCA, Quetta.

Conversely, the learned counsel for PCB Mr. Bilal Haider controverted the arguments of the learned counsel for appellant by arguing that Deputy Election Commissioner after verifying the status of the respondent No. 2, from the Fisheries Department, Balochistan came to



the conclusion that respondent No. 2 submitted his resignation in the month of August, 2017, resigning from the post of Junior Clerk with effect from 01-7-2017 to 31-7-2017 and his resignation was accepted on 21-8-2017, as such, on the day of election for the office of DCA, Turbat, he was not employee of Fisheries Department, Balochistan. Argued that the case of respondent No. 2 is not covered by clause (j) of Article 10 of Pakistan Cricket Board Election Regulations, 2015. As he submitted his resignation before the Election Day.

2. I have heard the learned counsel for appellant Ch. Faisal Manzoor, Advocate as well as Mr. Bilal Haider, Advocate for PCB.
3. Respondent No. 2 Shah Dost and respondent No. 3 Ashraf Khan were proceeded exapрте on 18-3-2019 as they neither appeared in person nor through their attorney / counsel.



No application for setting aside the exparte order dated 18-3-2019 was moved within time.

The case of the appellant is that respondent Shah Dost on the day of election of DCA, Turbat was employee of Fishery Department, Balochistan and was not eligible to contest the election of District Cricket Association, Turbat and as such, was not eligible to contest the election of President, RCA, Quetta and subsequently was illegally notified as Full Member of the Pakistan Cricket Board.

To analyze the correct position of the status of the respondent No. 2, I summoned the record of Deputy Election Commissioner to see the correct position of the case. Objections on the nomination papers of Shah Dost were filed on 26-12-2018 by Murad Baksh. Shah Dost submitted his reply before the Deputy Election Commissioner along with his reply, he also filed certificate dated 27-12-2018 certifying



that Shah Dost Junior Clerk of the Assistant Director, Fisheries, Orman, District Gawadar, tendered his resignation. His resignation was accepted w.e.f. 01-7-2017 vide letter dated 21-8-2017. Deputy Election Commissioner vide letter dated 5th March, 2019 asked the Director General, Fisheries, Balochistan to certify the present status of Shah Dost whether he is an employee of Fisheries Department. The Director General, Fisheries Balochistan vide letter dated 12th March, 2019 confirmed that Shah Dost son of Assa is no more employee of Fisheries Department. The question raised by learned counsel for appellant is that Shah Dost got elected as President of RCA, Quetta by virtue of his office of President, DCA, Turbat. Since he was not eligible to contest the election of DCA, Turbat, being a government servant, his subsequent elections are void and illegal.



As discussed above, the Election Schedule of DCA, Turbat was announced on 08-8-2017, nomination papers were field / submitted before 17-8-2017 and objections were field by one Abdul Ghani. On filing of the objections Shah Dost produced a letter dated 21-8-2017 of Director, Fisheries Department, Quetta that his resignation be accepted from a back date i.e. 01-7-2017 to 31-7-2017. Shah Dost has not filed copy of his resignation before the Deputy Election Commissioner to show on which date he submitted his resignation. All the letters of the Fisheries Department, Quetta also does not mention on which date, resignation was submitted. On the other hand, a letter of the office of Accounts Officer, Gawadar cetified that Shah Dost, Junior Clerk was paid salary upto 31-8-2017. In this letter it is mentioned that reason for issuance of this letter resignation. It means that he was



treated as Government Servant by Government of Balochistan for the month of August, 2017.

4. From all the documents on the record, it is evident that Shah Dost was a government servant on 08-8-2017, 17-8-2017 and 21-7-2017. The order of acceptance of his resignation w.e.f. 01-7-2017 to 31-7-2017 is illegal.

The resignation is always submitted with immediate effect or from a date in future. Thus, the resignation from a back date and acceptance of the same by the Department is illegal.

Now the question arises, when disqualification comes into play. It is held in Umer Ahmed Ghumman's case reported as PLD 2002 Lahore 521 that disqualification comes into play, the moment a person becomes a candidate and seeks election. In this case, disqualification qua respondents come into



play on 08-8-2017, when the Election Schedule was announced and on the subsequent dates, when he submitted his Nomination Papers, when objections were raised and decided by the Deputy Election Commissioner, PCB, Lahore, for the post of President, District Cricket Association, Turbat. Qualification and disqualification has been given in Article 10(j) of the Pakistan Cricket Board Regulations, 2015, viz-a-viz, election of the respondent Shah Dost, who on that day was working as Junior Clerk in the Office of Fishery Department, Balochistan. Since the case of respondent Shah Dost is hit by Clause (j) of Article 10 of the Pakistan Cricket Board Regulations, 2015, he was not eligible to contest the election of District Cricket Association, Turbat for any post in August, 2017. His Notification dated 16-10-2017 for the



post of President, District Cricket Association, Turbat is set aside.

5. Since the Notification dated 16-10-2017 is set aside by declaring that Shah Dost suffered from disqualification (a Government Servant) on the date 08-8-2017, when Election Schedule was announced by the Deputy Election Commissioner and on all subsequent dates. Resultantly, the subsequent election of Regional Cricket Association, in which Shah Dost won as President is set aside and the Notification dated 28-01-2019 is also set aside and the Election Commissioner is directed to held re-election of District Cricket Association, Turbat at the first instance and re-election of Regional Cricket Association, Quetta thereafter.



Mr. Justice (Retd.) Fazal-e-Meeran Chauhan
Independent Adjudicator,
Pakistan Cricket Board

6-5-2019

