

BEFORE THE ELECTION COMMISSION OF PAKISTAN

PRESENT:

MR. NISAR AHMED DURRANI, MEMBER

MR. SHAH MOHAMMAD JATOI, MEMBER

MR. BABAR HASSAN BHARWANA, MEMBER

MR. JUSTICE (R) IKRAM ULLAH KHAN, MEMBER

Case No. 4 (2)/2018-MCO

In Ref: **USE OF INTEMPERATE LANGUAGE AND CONTEMPTUOUS
REMARKS AGAINST THE HON'BLE CHIEF ELECTION COMMISSIONER**

ON NOTICE:

Imran Ahmed Khan Niazi s/o Ikram Ullah Khan Niazi, r/o Khan House,
Bani Gala, Mohar Noor, Islamabad

... Respondent

For the Respondent : Syed Muhammad Ali Bukhari, ASC on behalf
of Mr. Faisal Fareedd Ch. ASC

For ECP : Mr. Muhammad Arshad, DG (Law)
Mr. Khurram Shehzad, ADG (Law)

Date of Hearing : 03.01.2023

ORDER

Mr. Nisar Ahmed Durrani, Member.- Syed Muhammad Ali

Bukhari, proxy counsel appeared on behalf of Faisal Fareed Ch. ASC. He submitted an application for exemption of respondent from his personal appearance for today on the ground that the respondent is suffering from bullet injury and has not fully recovered so far. He further stated that mother of Faisal Fareed Ch, senior counsel is indisposed and she is hospitalized due to which he has also not been able to appear before the Commission.

2. Arguments heard. It reveals that vide order dated 12.09.2022 respondent was directed to appear in person however, on said date learned counsel for respondent made a request for time to file the reply. The matter was kept pending till the closing hours however, learned counsel turned up at about 6:00 pm and submitted his reply. Reply was thoroughly considered and after having been found unsatisfactory, Show Cause Notice dated

13.09.2022 was issued to the respondent with direction to appear in person on 27.09.2022 however, respondent again did not appear. It further reveals that vide order dated 11.10.2022 respondent was once again directed to appear in person but he did not bother to appear. Consequently, matter was fixed for framing of charge vide order dated 26.10.2022 with the following observations:

“4. It reveals from our preceding order sheets dated 12.09.2022, 27.09.2022 and 11.10.2022 that directions were issued for personal appearance of respondent and on his failure Show Cause Notice was issued. It further reveals that respondent, in spite of Show Cause Notice neither appeared before this Commission and nor has responded to the Show Cause Notice for the reasons best known to him. Indeed, in such like matters of Contempt, personal appearance of alleged contemnor/accused is mandatory under the law. However, it is quite surprising that respondent’s counsel instead of seeking exemption from personal appearance of respondent, has been making requests for adjournment of instant matter on each and every date of hearing on the ground that matter is pending adjudication before the Hon’ble High Court.

5. So far as the pendency of matter before the Hon’ble High Court is concerned the Hon’ble Lahore High Court, Rawalpindi Bench, Rawalpindi on 30.08.2022 has passed the order in W.P. No. 2285/2022 *inter alia* with the following observations:

“9.....As *Interim relief has already been granted by the High Court of Sindh, Karachi in identical matter, referred to above, therefore, to maintain consistency, the proceedings*

before the ECP may continue however, final order shall not be passed.”

From plain reading of above order, it reveals that stay has been granted to the extent that final order shall not be passed in the instant matter. However, proceedings before us have not been stayed as specifically observed “**..the proceeding before the ECP may continue...**”. Hence we are of the view, that passing of order in the instant matter qua personal appearance of respondent is neither illegal nor it can be termed as any adverse action in any manner.

6. The record available before us obtained from PEMRA speaks volumes about the conduct of the respondent that he is committing contempt of the Election Commission of Pakistan and in light thereof, the Commission decides to proceed further in the matter by framing proper charge against the respondent. Hence instant matter is adjourned to **10.11.2022** for framing of charge against respondent. Office to inform the respondent, accordingly.

Matter was again fixed for framing of charge on 10.11 2022 and 22.11.2022 but learned counsel for the respondent submitted applications for exemption of personal appearance of respondent on said dates which were allowed, accordingly. On last date of hearing i.e. 13.12.2022 learned counsel for respondent again submitted an application for exemption of respondent which was allowed and following order was passed:

“Learned counsel for respondent appeared and submitted an application for exemption of answering respondent from personal appearance. He stated that respondent is suffering from flue and high fever due to which he is unable to appear in person. He further stated that matter which was subjudice in august Supreme

Court of Pakistan for consolidation of cases has been reserved and most probably it would be announced within few days. He prayed that instant matter may be proceeded in accordance with the observations of august Supreme Court of Pakistan.

2. Request for exemption of answering respondent for today is allowed. Case to come up on **03.01.2023.**

Now the august Supreme Court of Pakistan has decided the matter vide judgment dated 06.12.2022 with following observations:

“5. In view of the foregoing legal position, the proceedings before the ECP under section 10 of the Act may continue without restraint. These petitions are disposed of with the above observations.”

3. The long and short of above discussion is that respondent has neither appeared before this Commission and nor he has filed his reply to the Show Cause Notice dated 13.09.2022 as yet after lapse of sufficient time. In such view of the matter, it appears that respondent namely Imran Khan is deliberately seeking adjournments on one or other pretext and also reluctant to appear before this Commission which amounts to mockery on law. Such conduct of respondent could not be tolerable, as his non appearance before this Commission seems to be intentional.

4. Now the contention of learned counsel which was taken on previous multiple dates, that the Election Commission of Pakistan, should not proceed further in matter in hand till final judgment of the august Courts, has already been settled by the Apex Court and,

ECP has been permitted to proceed further in the instant matter, in accordance with law.

5. So far as the plea taken by proxy counsel for exemption of respondent for today is concerned, it is not clothed with any substantial evidence as he has not been able to provide a medical certificate of respondent in support thereof. Hence, in the circumstances of the case, we have left with no alternate except to issue bailable warrant of arrest against respondent in sum of Rs. 50,000/- (fifty thousand) with two sureties in the like amount each.

6. In view of above discussion, exemption application made by learned counsel for respondent is dismissed and bailable warrants of arrest against the respondent is issued in the above mentioned terms which shall be executed through the Inspector General of Police, Islamabad. Office to take follow up action forthwith. Case to come up on **17.01.2023.**

(Nisar Ahmed Durrani)

Member

(Shah Muhammad Jatoi)

Member

(Babar Hassan Bharwana)

Member

(Justice (R) Ikram Ullah Khan)

Member

Islamabad

The 3rd January, 2023