



PROVINCIAL ASSEMBLY OF THE PUNJAB

RULING OF THE CHAIR

IN RESPECT OF POINT OF ORDER RAISED MR AFTAB AHMAD KHAN, MPA (PP-108) REGARDING ORDER OF SUPREME COURT OF PAKISTAN DATED MAY 6, 2024 IN RESPECT OF ALLOCATION OF SEATS RESERVED FOR WOMEN/NON-MUSLIMS IN PROVINCIAL ASSEMBLY OF THE PUNJAB

BACKGROUND:

This ruling shall dispose of the point of order raised by hon'ble member Mr Aftab Ahmed Khan, MPA (PP-108) during the sitting held on May 9, 2024.

Brief background of this ruling is that a number of petitions were filed before Election Commission of Pakistan in respect of the allocation of reserved seats for women and non-Muslims in the National and Provincial Assemblies constituted as a result of General Elections 2024, held on 08.02.2024. The Commission issued notification in which the independent candidates were notified as returned Candidates in the National and Provincial Assemblies. Subsequent to the notifications some of the independent candidates joined political party named Sunni Ittehad Council (SIC) and their affidavits were forwarded to the Commission by the said political party in respect of National and Provincial Assemblies. Sunni Ittehad Council requested the Election Commission of Pakistan for allocation of share in the seats reserved for women and non-Muslims in the National and three Provincial Assemblies.

The Election Commission of Pakistan, in its Order dated March 1, 2024 held as under:

"33. Therefore, the Commission is of the view that in light of clear provisions of Article 51(6) of the Constitution read with Section 104 of the Elections Act, 2017 and Rules 92 and 94 of the Election Rules, 2017, SIC is not entitled to claim for the quota for reserved seats for women and non-Muslims due to having non-curable legal defects and violation of mandatory provision of submission of party list for reserved seats which is the requirement of law. The request of Petitioner No.1 is rejected and all the other petitions from Serial Number 2-10 are partially accepted. The seats in the National Assembly shall not remain vacant and will be allocated by Proportional representation process of Political Parties on the basis of seats won by Political Parties. Office is directed to calculate the quota accordingly."

Pursuant to the above Order, the Election Commission of Pakistan, on March 4, 2024, issued Notification for additional reserved seats in Provincial Assembly of the Punjab. The returned candidates were administered oath of membership in the following session of Punjab Assembly.

The above-mentioned order of ECP dated March 1, 2024 was challenged in the Supreme Court of Pakistan on the grounds that allocation of the reserved seats for women and non-Muslims to the political parties other than the petitioner, Sunni Ittehad Council ("SIC"), was in violation of Article 51(6)(d) & (e) of the Constitution which provides for proportional representation system on the basis of total number of general seats secured by each political party from the Province concerned in the National Assembly. Once a political party has been allocated the reserved seats on the basis of proportional representation system, the remaining seats cannot be re-allocated to the same political party.

On the other hand, the respondent (ECP) was of the view that according to Articles 51 and 106 of the Constitution the reserved seats have to be allocated on the proportional representation system only to those political parties who have contested the general elections and won at least one seat in the said elections. Since SIC did not contest the elections and did not win even a single seat in the general elections, it cannot be considered as a political party in terms of Articles 51(6)(d) & (e) and 106(2)(c) of the Constitution, for the purpose of allocating the reserved seats. Learned Attorney-General for Pakistan ("AGP") supported the contentions of the learned counsel for the ECP. Both the learned counsel for ECP and the learned AGP frankly conceded that this was a case of first impression involving questions of constitutional law that have not been addressed by the Court earlier.

After hearing both the parties, the Supreme Court of Pakistan, in its short order dated May 6, 2024 held as under:

"Therefore, leave to appeal is granted to consider, amongst others, the said questions. The appeals are to be posted for hearing on 03.06.2024. The appeal arising out of these petitions will be heard on the basis of available record; however, both sides are at liberty to file any additional documents, which were part of the record before the fora below but have not been filed with instant petitions.

In the meanwhile, operation of the impugned judgment of the Peshawar High Court dated 25.03.2024, as well as, the order of the Election Commission of Pakistan dated 01.03.2024 is suspended. It is, however, clarified that this interim order relates to the disputed seats only, i.e., the reserved seats allocated over and above the initially allocated reserved seats to the political parties. It is also clarified that this order is to operate prospectively, w.e.f., from today."


RULING

In exercise of powers vested in me under **Rule 209 of the Rules of Procedure of Provincial Assembly of the Punjab 1997**, I, **Malik Muhammad Ahmad Khan, Speaker**, announce the following ruling on the issue:

On May 9, 2024, when the 9th Session of Provincial Assembly of the Punjab commenced, Mr Aftab Ahmed Khan, MPA (PP-108) raised a point of order that after the above-mentioned order of Supreme Court of Pakistan dated May 6, 2024, the women and non-Muslim members present in the House, who had been declared elected against the above-mentioned quota should not sit in the House.

I am of the view that the said order and the consequent proceedings should have been communicated to the Speaker by the ECP, but it wasn't. Hence, I was not in a position to decide the matter there and then. However, now the order has been produced in the House by Mr Aftab Ahmad Khan, the Speaker is bound to comply with it.

With this reasoning, I rule that point of order raised by Mr Aftab Ahmad Khan, MPA on May 9, 2024 is **in order** and the women/non-Muslim members declared elected *vide* ECP Notifications dated March 4, March 8 and March 22, 2024 can not **function as member or participate in the proceedings of the Assembly**, until their status is clarified by the ECP or the hon'ble Supreme Court.


(Malik Muhammad Ahmad Khan)
Speaker

Announced: May 10, 2024