

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

In Re: _____

Of No. _____ /2021

..... Petitioner

VERSUS

Respondents of Petition & others

..... Respondents

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ADVOCATE

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

In Ref to

W.P No. _____/2023

Muhammad Muazzam Butt

.....Petitioner

VERSUS

President of Pakistan & others

.....Respondents

APPLICATION TO PLACE ON RECORD COPY OF AMENDED WRIT PETITION

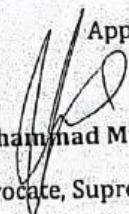
Respectfully Sheweth:-

Petitioner submits as under:-

1. That the above noted writ petition is pending in this Honorable Court and date of hearing is 15-12-2023.
2. That the applicant requests to place on record the copy of amended writ petition.

It is, therefore requested that the subject application may please be allowed.

Applicant


Muhammad Muazzam Butt

Advocate, Supreme Court

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BEFORE THE PESHAWAR HIGH COURT PESHAWAR

In Ref to

W.P No. _____/2023

Muhammad Muazzam Butt

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President of Pakistan & others

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AFFIDAVIT

I Muhammad Muazzam Butt Son of Muhammad Zahoor Butt Resident of 6-A Nasir Mansion, 2-Railway Road Shuba Bazar Peshawar do hereby solemnly affirm and declare that contents of this Writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


DEPONENT

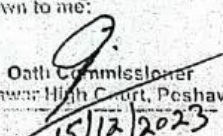
CNIC NO: 17301-9259950-7

CELL NO: 0332-5807822

NO: 564B7

Certified that the above was verified on solemnly affirmation before me in office, this 15 day of Dec 23 by M. Muazzam B s/o M. Zahoor Butt of Peshawar who was identified by Self

Who is personally known to me:


Oath Commissioner
Peshawar High Court, Peshawar
15/12/2023

IN THE PESHAWAR HIGH COURT, PESHAWAR

In Ref to

Amended Writ Petition No5260-P/2023

Muhammad Muazzam Butt, Advocate Supreme Court

Spokesperson Pakistan Tehreek-e-Insaf

R/o Office Address: 6-A, Nasir Mansion, 2-Railway Road, Shuba Bazar, Peshawar

.....Petitioner

V E R S U S

1. President of Pakistan through Principal Secretary
Office Address: Room No. 332, 3rd Floor, Alwan-e-Sadr, Islamabad
2. Federation of Pakistan through Secretary Interior
R Block, Pak Secretariat, Islamabad
3. Governor Khyber Pakhtunkhwa, through Principal Secretary
2H64+8W, Finance Department, Civil Secretariat, Peshawar
4. Election Commission of Pakistan through Secretary,
ECP Building, Constitutional Avenue, Islamabad
5. Deputy Election Commissioner, Peshawar
Election Commission of Pakistan Shami Road Peshawar
6. Government of Khyber Pakhtunkhwa through Chief Secretary
Civil Secretariat, Khyber Road, Peshawar Cantt
7. Khyber Union of Journalist
Through its President, Press Club Railway Road Peshawar
8. Peshawar Press Club
Through its President, Press Club, Railway Road, Peshawar

.....Responder

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AMENDED WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973

Respectfully Sheweth:

1. That this amended writ petition has been filed as national cause for the implementation of will of the Constitution for holding free, fair, honest and transparent elections within stipulated time i.e. 08th of February 2023 in pursuance of the order of the August Supreme Court.
2. That the petitioner is a citizen of Islamic Republic of Pakistan, is an Advocate Supreme Court, is the spokesperson of Pakistan Tehreek-i-Insaf (PTI) and is the Secretary General of Insaf Lawyers Forum, Pakistan (ILF).
3. That 08.02.2024 has been announced as poll date for the general elections to the National Assembly of Pakistan and Provincial assemblies of Punjab, Sindh, Khyber Pakhtunkhwa and Balochistan.
4. That it is the duty of the Election Commission to organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and the corrupt practices are guarded against, However the conduct of Election Commission reveals that organizing and conducting the election and to make the necessary arrangements to assuring the conduct of election honestly, justly, fairly and in accordance with law is/will not be possible and the corrupt practices would prevail.
5. That the order of the Apex Court has made it binding that the election shall be held on 8th of February 2024, since the date of the filing of the nomination paper till date many unlawful, unjust and dishonest activities have found visible having being committed on the part of respondents, However at the nick of time the election commission has issued a notification of DROs from executives dated 11th of December 2023, it needs to be set at naught, dismissed and set aside for the reason that in view of the Article 218(3) of the Constitution and Section 24-A of the General Clauses Act and further the same has been conceived in malice.
6. That in a given peculiar circumstances, when the local administration ruthlessly taken coercive actions by targeting one political party in frivolous, fake and false

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FIRs and maintenance of public order Ordinance 1960; the data is available with this Honorable Court which transpire the unnatural and abnormal environment.

7. That the term "consultation" in Section 50 & Section 51 of the Election Act is not cosmetic but it guards the intention of legislature to ensure free, fair and honest elections and the same is absolutely relevant and is also attracted in prevailing circumstances.
8. That the Election Commission has not exercised its discretion fairly and honestly as it did not even approach this Honorable High Court to seek the consultation of Chief Justice consequent to the order of Supreme Court identifying the target date of election i.e. 8th of February 2024, such eventuality also adds to the comprehension which would lead the nation towards unfair election.
9. That as the notifications issued by the election commission appointing the provincial employees/ District and local administration is arbitrary, unfair and unjust Hence such notifications also required to be dismissed and set aside. Copy of the impugned notification is attached as Annexure A
10. That the petitioner being aggrieved and keeping in view the subsequent notification issued by election commission appointing ROs and DROs from the local administration submit this amended writ petition under Article 199 of the Constitution of Pakistan on the following among other grounds to seek elections under the supervision of judiciary:-

GROUND S:

- a) That the August Supreme Court of Pakistan while hearing Constitutional Petitions No 32 and 36 of 2023, Civil Miscellaneous Appeal Nos. 118 and 119 of 2023 in Const. P. NIL/2023 has graciously been humbled in facilitating the President and ECP to do right by the people of Pakistan and the matter of holding of general election on 08.02.2024 thus stands resolved.
- b) That it has already been observed in various decisions of Courts' that the higher the Constitutional office or body the greater is the responsibility. Obedience to the Constitution and law is an inviolable obligation of every citizen, and added responsibility and obligation is placed on all those who assumed their office by taking an oath. The President, the Chief Election Commissioner, Members of ECP and the Governor take the prescribed oath.

- c) That the Order passed by the August Supreme Court of Pakistan in Suo Moto Case No. 01 of 2023 and Constitutional Petition No 01 of 2023 and Constitutional Petition No 02 of 2023 in para 13 of the order dated 01.03.2023, it has been held that the Governor of KPK province, in as much as he has not appointed the date for holding general election to the assembly of the province is in breach of his constitutional responsibility.
- d) That intelligence agency had no role to play in the political affairs of the country such as formation or destabilization of government, or interference in holding of honest, free and fair election, involvement of the officers/ members of secret/ intelligence agencies in unlawful (political) activities, individually or collectively calls for strict action being violative of oath of their office and if involved, they were liable to be dealt with under the Constitution and the law (Reliance Muhammad Asghar Khan Vs Mirza Aslam Baig) whereas the Governor KP while sleeping over above stated constitutional position and the law has declined giving election date as provided in Article 105(3) of the Constitution on the ground that the election date would be given by him in consultation with agencies, his narrative and expression was widely published in electronic and print media.
- e) That the Governor KP has now appointed another interim Chief Minister, consequent to the death of Mr. Azam Khan the care taker CM, in the absence of any constitutional provision authorizing him to do so. All this being carried out constitutes pre poll rigging, illegal and corrupt practices which are distant to deny the fair, honest and transparent election safeguarding the vote of the citizen of Pakistan.
- f) That the constitutionality and the legitimacy beyond the period of 90 days headed by deceased CM Azam Khan has long expired, his holding of the office was also unlawful and without jurisdiction rather it was imposed and thrust upon the people of KP in disregard to the constitutional mandate whereas the former Chief Minister then was the leader of the House being the member of PTI, now he has made his own independent party known as Pakistan Tehreek-e-Inaf Parliamentarian PTI-P and on no ground whatsoever make use of his previous office as the leader of the then ruling party PTI.
- g) That in the absence of legitimate or controversial care taker cabinet of KP

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simply possible. Needless to say that the actions in disregard to the oath of office by the holders of constitutional provision have already been observed by the Supreme Court of Pakistan.

- h) That the impugned notification by virtue of Section 51 has been conceived in malice to defeat the required consultation related legislation for an action based on not good faith, in such eventuality such action cannot be justified and could be found not confidence inspiring and thus are not tenable in law.
- i) That the provincial interim government and even the Governor KP is not impartial and rather opposed to Pakistan Tehreek-e-Insaf in particular.
- j) That the care taker provincial government has implicated almost every leader of PTI in false cases in each and every district of the Country including KP, the media has also been covering the violation and abuse to the fundamental rights of political activist leading the PTI from grass root level up to Provincial and National leadership which also includes former Speaker of National Assembly of Pakistan Mr. Asad Qaiser.
- k) That under Article 218(3) of the Constitution, it is the duty of election commission to make such arrangement as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law and that the corrupt practices are guarded against.
- l) That as the legitimacy of the provincial government has already under challenged, it cannot be trusted for honest governance of the election process and as it is acting in consultation with security agency, (Respectfully stated) in disregard to the principle laid down in the Supreme Court judgment reported as Muhammad Asghar Khan Vs Mirza Aslam Baig.
- m) That under the law, the Election Commission in consultation with the chief justice of the concerned High Court can appoint Returning officer and Assistant Returning Officer, who may take all necessary acts for effective conduct of the poll in accordance with the provision of the Constitution and Election Act, 2017.
- n) That the Election Commission of Pakistan has already acted in violation of the Constitution by delaying the election process and that it has turned upside down the entire election process against the public interest.

- o) That the election process has already been initiated, other parties have held huge public gatherings and demonstrations whereas the Provincial Government in every Tehsil, District and at Provincial level has infringed the right of PTI to reach out to the voters, its rallies have been attacked, its conventions have been not allowed and they are being restrained from raising their flags and posting their posters and Panaflexes. Practically the entire political activities of PTI have been freeze.
- p) That the favorite political parties are being supported and favorite group and political parties are being patronized whereas the holders of constitutional positions and even others to follow owe constitutional duty to represent the unity of the republic to which KP is a Federating unit.
- q) That in the above mentioned circumstances, where both election commission of Pakistan & Governor KP and heads of Constitutional position are evidently supporting one another to oust the PTI from political arena and that as they have failed to provide equal playing level field to the PTI which is the most popular party in Pakistan then the judiciary may be gracious enough to bring the entire election process in its watch by directing the conduct of election by the judicial officers and to make such arrangements to ensure that the election is conducted honestly, justly, fairly and in accordance with law and that the corrupt practice are guarded against, under strict watch and supervision of the judiciary.
- r) That the writ petition no 5260-P of 2023 may please be read as integral part of this amended writ petition.

It is therefore very humbly prayed that appropriate writ may be granted as follow:-

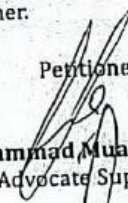
- I. **DECLARE** that the enforcement of fundamental rights of citizens of Pakistan should be ensured and for the true spirit of democracy, the citizens may be allowed to freely choose their representatives through election process which is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against and that whereas to achieve such objectives it would be fair and lawful that the entire election process in the province of KP may be performed under the watch and supervision of the judiciary and the election process may be directed to be conducted through judicial officers in line with the mechanism provided in Election Act and rules made thereunder.

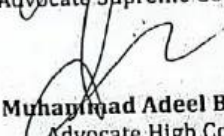
8/A

- III. AND the election commission of Pakistan, the stated interim government of the province and the Governor KP may be directed to be refrained from any interference in the entire election process adversely affect the essence of Article 218(3), Preamble and Article 2-A of the Constitution of Pakistan and that other provision of the Constitution of Pakistan.
- IV. THE appropriate mechanism may please be streamline to ensure the election is conducted is honestly, justly fairly and in accordance with law and corrupt practices are guarded against under the supervision of judicial officers.
- V. ANY other relief which though has not been specifically prayed for but is found appropriate may also be granted to the petitioner.

Dated: 15-12-2023
Peshawar

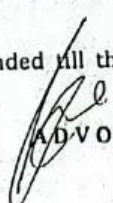
Petitioner


Muhammad Muazzam Butt
Advocate Supreme Court


Muhammad Adeel Butt
Advocate High Court

INTERIM RELIEF:-

In the meanwhile the impugned notification may please be suspended till the final disposal of case.


ADVOCATE



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**ELECTION COMMISSION OF PAKISTAN
NOTIFICATION**

Islamabad the 11th December, 2023

No.F.2(2)/2023-Coord-Vol-VIII (3).- In pursuance of the provisions of Section 51 of the Elections Act, 2017 (Act No. XXXIII of 2017), and all other powers enabling it in that behalf, the Election Commission of Pakistan Publishes herewith, for general information, a list of Returning Officers and Assistant Returning Officers appointed for the Constituencies noted against them for election of the members of Provincial Assemblies of Khyber Pakhtunkhwa, Punjab, Sindh and Balochistan:

LIST OF RETURNING OFFICERS AND ASSISTANT RETURNING OFFICERS OF THE PROVINCIAL ASSEMBLIES CONSTITUENCIES		
No. & Name of Provincial Assembly Constituency	Returning Officers	Assistant Returning Officers
1	2	3
KHYBER PAKHTUNKHWA		
PK-01 Chitral Upper	Ihsan Ul Haq, Additional Deputy Commissioner (Finance & Planning) Upper Chitral	1 Imtiaz ur Rehman, Sub-Divisional Education Officer (Male), Torkhow Mulkhaw, Upper Chitral
		2 Aminur Rehman, Tehsil Municipal Officer, Torkhow Mulkhaw, Upper Chitral
PK-02 Chitral Lower	Muhammad Atif Jalib, Assistant Commissioner, Chitral Lower.	1 Shahzad Nadaem, Sub-Divisional Education Officer (Male), Chitral
		2 Khalil Ullah, Tehsildar, Chitral
PK-3 Swat-I	Sikandar Khan, Assistant Commissioner, BahraIn, Swat	1 Saran Zeb Mian, Principal, Government High School, Chail, BahraIn, Swat
		2 Gouhar Ali, Secondary School Teacher, Government High School, Shalpin, Swat