

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ
Mr. Justice Gulzar Ahmed
Mr. Justice Sh. Azmat Saeed

Constitution Petition No.05 of 2013

(Challenging the constitution of Election
Commission of Pakistan)

Dr. Muhammad Tahir-ul-Qadri

...Petitioner

Versus

The Federation of Pakistan,
thr. Secretary M/O Law, Islamabad & others

Respondent

Petitioner:

In person

On Court Notice &
For the Federation: (R-1&3)

Mr. Irfan Qadir, A. G. for Pakistan

For Election Commission:

Mr. Muhammad Munir Peracha, Sr. ASC
Mr. Mehmood A. Sheikh
Mr. Abdul Rehman, Addl.DG. Legal

For Parliamentary Committee:

Mr. Muhammad Latif Qureshi,
Joint Secy. National Assembly

Dates of hearing:

11 to 13.02.2013

ORDER

Iftikhar Muhammad Chaudhry, CJ.— For reasons to be recorded later it is held that petitioner, Dr. Muhammad Tahir-ul-Qadri has failed to make out a case for exercising the discretionary jurisdiction by this Court under Article 184(3) of the Constitution of the Islamic Republic of Pakistan, for the facts that violation of any of the Fundamental Rights under Chapter 1 of Part II of the Constitution has neither been listed in the petition nor established during course of arguments, despite of insistence by the Bench to do so. The petitioner has also failed to prove his *bona fides* in view of the facts, which have

been noticed at the hearing of the case, to invoke the jurisdiction of this Court coupled with the fact that under the peculiar circumstances he has no *locus standi* to claim relief as it has been prayed for in the petition, *inter alia*, for the reasons that being a holder of dual citizenship, he is not qualified (disqualified) to contest the election to the Parliament in view of the constitutional bar under Article 63(1)(c) of the Constitution, which has been interpreted by this Court in the case of Syed Mehmood Akhtar Naqvi v. Federation of Pakistan (PLD 2012 SC 1089).

2. However, it is loudly and clearly observed that as a voter like other overseas Pakistanis, whose names have been incorporated in the Electoral Rolls, he can exercise his right of vote as this right is recognized under the Constitution and has also been held by this Court in the case of Yasmin Khan v. Election Commission of Pakistan (1994 SCMR 113), which was finally disposed of vide judgment in Constitution Petition 26/1993 dated 18.12.1993. Thus, the petition is dismissed.

3. Before parting with the short order, it is essential to note that at the time of concluding his arguments on the points noted hereinabove, he started making uncalled for aspersions against the member of the Bench, which are tantamount *prima facie* to undermine its authority calling for action against him for Contempt of Court under Article 204(3) of the Constitution read with section 3 of the Contempt of Court Ordinance, 2003. However we, while exercising restraint, have decided not to proceed against him following the principle that such jurisdiction has to be exercised sparingly on case to case basis.

Chief Justice

Judge

Judge

Islamabad, the
13th February, 2013