Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD (JUDICIAL DEPARTMENT)

I.C.A. No.166/2022

Pakistan Tehreek-e-Insaf
through its Secretary General Mr Asad Umer

Versus

The Election Commission of Pakistan,
through its Chief Election Commissioner & another

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	14-06-2022	Mr Anwar Mansoor Khan, Mr Shah Khawar, Mr Naveed Anjum, Ms Umaima, Mr Babar Samore, Mr Muhammad Usman Warraich, Advocates for petitioner. Mr Haseeb Shakoor Paracha, Mr Muhammad Numan Zaheer, Mr Qaiser Imam Ch., Mr Badar Iqbal Ch., Advocates for respondents. Mr M. Arshad, Director General (Law), Election Commission of Pakistan. Ms Saima Tariq Janjua, Dy. Director (Law), Barrister Adil Kaleem, Consultant, ECP.

Athar Minallah, C.J.- Pakistan Tehreek-e-Insaf (*hereinafter referred to as the* ***"Appellant"***) has filed the Intra Court Appeal assailing judgment, dated 01-04-2022, passed by the learned Single Judge whereby Writ Petition No.958/2022 was dismissed.

2. The Appellant had filed an application before the Election Commission of Pakistan (*hereinafter referred to as the* ***"Commission"***) and it was prayed therein that Akbar Sher Babar (*hereinafter referred to as the* ***"Respondent"***) be restrained from participating in the pending proceedings. The application was dismissed by the Commission vide order, dated 15-03-2022. The connected constitutional petition has been filed by the Additional Secretary General of Pakistan Tehreek-e-Insaf wherein a

direction has been sought against the Commission to cause the State Bank of Pakistan to locate the accounts of all the political parties. A further direction has also been sought restraining the Commission from causing discrimination and to proceed against all the political parties on day to day basis.

3. We have been informed by the representative of the Commission that the proceedings against the Appellant and other political parties have been initiated under the Political Parties Order, 2002 (*hereinafter referred to as the* ***"Order of 2002"***) and the Political Parties Rules, 2002 (*hereinafter referred to as the* ***"Rules of 2002"***). He has further informed that the proceedings against the Appellant are pending since 2014 while those against other political parties were initiated later. He has unequivocally stated before us that information has been sought from the State Bank of Pakistan regarding other three political parties and that their cases are expected to be scrutinized and the process completed within a reasonable time. In case of the Appellant, the scrutiny committee, after concluding its proceedings, has submitted its report. We have been informed that at this stage the Commission is considering the said report. The Commission has yet to consider whether a case is made out for issuance of a show cause notice contemplated under rule 6 of the Rules of 2002.

4. In a nutshell, the Appellant has raised objections regarding participation of the Respondent in the pending proceedings before the Commission and the manner in which its case has been dealt with.

5. It is noted that the Commission is a creation of the Constitution and it is empowered to regulate its own proceedings. A Division Bench of this Court in the case titled *"Imran Khan, Chairman Pakistan Tehreek-e-Insaf v. Election Commission of Pakistan & another"* [ICA No.348/2018] vide order, dated 04-12-2019, has held that the proceedings before the Commission are inquisitorial in nature and not adversarial. A plain reading of the Order of 2002 as a whole affirms that the proceedings thereunder are not of adversarial nature. The status of the Respondent, Akbar Sher Babar, is thus no more than an informer. The latter, therefore, cannot assert a right to be treated as if the dispute is of an adversarial nature. Nonetheless, the Commission is empowered to regulate its own proceedings and while doing so, it is expected that the proceedings against all the political parties, including the Appellant, will be completed with due diligence. The representative of the Commission has unequivocally stated before us that the cases of all the political parties are being dealt with in a fair and transparent manner. There is nothing on record to indicate that the Appellant has been treated differently. It would not be appropriate for this

Court to give a direction to the Commission on the basis of unsubstantiated apprehensions.

6. We are, therefore, satisfied that, at this stage, neither an adverse order has been passed by the Commission nor it is likely to be passed in derogation of the procedure prescribed under rule 6 of the Rules of 2002. We have not been able to persuade ourselves that the Appellant has been prejudiced in any manner. In the light of the assurance given by the representative of the Commission, we have no reason to doubt that all the political parties will be extended equal treatment and that their cases would be concluded with due diligence and within a reasonable time.

7. For the above reasons, we partially allow the appeal by setting aside the judgment, dated 01-04-2022, to the extent of the direction *"to decide the pending complaint within period of thirty (30) days*". The constitutional petition i.e. W.P. No.1439/2022 is disposed-of with the expectation that the Commission will complete the pending proceedings against other political parties within a reasonable time and in a fair, just and transparent manner.

(CHIEF JUSTICE)

(BABAR SATTAR)
JUDGE

Luqman Khan/*