ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.4177 of 2023
Pakistan Artificial Leather Manufacturers Association and others
Versus
Directorate General of Trade Organizations and others

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
02.	**21.12.2023**	**Mr. Ali Nawaz Kharal, Ch. Ali Abbas and Malik Qamar Abbas, Advocates for the petitioners.** **Malik Ghulam Sabir, Advocate for respondent No.3 (*through video link*).** **Ms. Asia Batool, learned Assistant Attorney-General along with Pir Shahgul Ahmad, Deputy Director, DGTO, Ministry of Commerce.**

Through the instant writ petition, the petitioners assail order dated 06.12.2023 passed by the Directorate General of Trade Organizations (“DGTO”), whereby the appeal filed by respondent No.3, Muhammad Ali Farooq, under Rule 18(7) of the Trade Organizations Rules, 2013 (“the 2013 Rules”) against order dated 23.11.2023 passed by the Election Commission of the Federation of Pakistan Chamber of Commerce and Industry (“FPCCI”), was allowed and petitioners No.2 and 3 were found to be ineligible to participate in the forthcoming elections of the Executive Committee and General Body of the FPCCI. Vide said order dated 23.11.2023, the Election Commission of FPCCI turned down the representation filed by respondent No.3 against the order dated 15.11.2023 passed by the Secretary General of the FPCCI. Vide said order dated 15.11.2023, the Secretary General of the FPCCI had turned down the objections filed by respondent No.3 to the nominations of petitioners No.2 and 3 by the

UNCERTIFIED COPY

Pakistan Artificial Leather Manufacturers Association (**"PALMA"**) to take part in the said elections.

2. PALMA had nominated petitioner No.2, Tariq Nisar, to vote in the elections to the Executive Committee and General Body of FPCCI in the associate class, whereas petitioner No.3, Haroon Anwar, had been nominated to vote in the elections to the General Body of the FPCCI in the corporate class. After the said nominations were made, the FPCCI included petitioners No.2 and 3's names in the provisional list of voters for the FPCCI Elections 2024-25 as nominees of PALMA.

3. On 10.11.2023, respondent No.3 filed objections to petitioners No.2 and 3's inclusion in the voters list. The primary ground taken by respondent No.3 to question the nominations made by PALMA (and the one that prevailed with the DGTO for ordering petitioners No.2 and 3's exclusion from the voters list) was that PALMA was functioning in violation of the requirements of Rule 3(2)(d), Rule 10(2)(a), Rule 21(15) of the 2013 Rules.

4. Vide order dated 15.11.2023, the Secretary General of the FPCCI turned down respondent No.3's objections. On 18.11.2023, respondent No.3 preferred a representation under Rule 18(6) of the 2013 Rules against the said order dated 15.11.2023 before the Election Commission of FPCCI. Vide order dated 23.11.2023, the said representation was also turned down. The said concurrent orders dated 15.11.2023 and 23.11.2023 were assailed by respondent No.3 in an appeal under Rule 18(7) of the 2013 Rules

UNCERTIFIED COPY

before the DGTO. Vide order dated 06.12.2023, the said appeal was allowed; and petitioners No.2 and 3's nominations by PALMA to participate in the FPCCI Elections 2024-25 were declared to be illegal on the ground that the Executive Committee of PALMA in the current year comprises of the same firms who were members of the Executive Committee in the preceding two years, and this was a violation of Rule 21(15) of the 2013 Rules.

5. Furthermore, the DGTO held that PALMA to whom license was granted on 25.11.2020 did not fulfill the requirements of Rule 3(2)(d)(iv) of the 2013 Rules which requires a trade organization to have members in all the federating units of Pakistan, whereas PALMA had only 11 registered members of the General Body and that too only from Karachi and Lahore. It was also held that PALMA had also violated Rule 21(6) of the 2013 Rules by not giving any representation to a woman on its Executive Committee.

6. Learned counsel for the petitioners submitted that since there were only 11 concerns / industrial units in Pakistan engaged in the business of artificial leather manufacturing, it is for this reason that PALMA had only 11 members. Furthermore, he submitted that strong vested rights had been created in favour of the petitioners upon the inclusion of petitioners No.2 and 3's names in the provisional voters list issued for FPCCI Elections 2024-25; that petitioners No.2 and 3 nominations had been duly approved by the Executive Committee of PALMA; that PALMA was granted a license by DGTO on 25.11.2020; that it was only after a lapse of two years from the grant

UNCERTIFIED COPY

of a license, can a trade organization be eligible to nominate its members to vote in the elections of FPCCI; that when the previous elections of FPCCI were held, a period of two years after the grant of license to PALMA had not been completed; and that since PALMA had been registered as a trade organization with only 11 members from the provinces of Sindh and Punjab, it could not be prevented from participating in the FPCCI Elections. Learned counsel for the petitioners prayed for the writ petition to be allowed in terms of the relief sought therein.

7. On the other hand, learned counsel for respondent No.3 submitted that the petitioners do not enjoy any exemption having been granted by the Federal Government from compliance with any of the provisions of the Trade Organizations Act, 2013 (**"the 2013 Act"**) or the 2013 Rules.

8. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance. The facts leading to the filing of the instant petition have been set out in sufficient detail in paragraphs 2 to 5 and need not be recapitulated.

9. Rule 3(2)(d)(iv) of the 2013 Rules provides that subject to the provisions of Section 3 of the 2013 Act, an applicant trade organization, save as to the Federation, shall only be licensed under the 2013 Rules to be registered under the 2013 Act if such trade organization, in case of an association, has membership on all-Pakistan basis unless it has been established to the satisfaction of the Federal Government that the nature of the trade, industry, service or any combination thereof renders it

UNCERTIFIED COPY

impractical or impossible to have membership on all-Pakistan basis. Furthermore, Rule 3(2)(d)(i) provides that for a trade organization to be granted a license, it has to have 100 members if it is an association.

10. PALMA is admittedly an association. It is also not disputed that it does not have 100 members, and that its membership is not on all-Pakistan basis. Therefore, the requirements of Rule 3(2)(d)(i) as well as Rule 3(2)(d)(iv) were not fulfilled by PALMA when it applied for a license. Nevertheless PALMA was granted a license on 25.11.2020 under Section 3(2)(d) of the 2013 Act. This license is valid for a period of five years from the date when it was issued, and the same has till date not been cancelled or revoked in accordance with the law. There is nothing on the record to show that any application has been filed before the DGTO and / or the Federal Government for the revocation or cancellation of the said license. Be that as it may, this case does not concern the revocation or cancellation of PALMA's license, but whether it could nominate two of its members to participate in the FPCCI Elections 2024-25.

11. Now, Rule 21(15) of the 2013 Rules provides that on completion of term, office bearers and members of the Executive Committee shall not be eligible to contest elections or co-option in any representative capacity in the trade organization for the next one year. Rule 21(13) provides that the tenure of members of the Executive Committee shall be two years subject to the condition that 50% members of the Executive Committee shall retire ever year. It is an admitted position that the

UNCERTIFIED COPY

present status of the Executive Committee of PALMA is not in conformity with the requirements of the said Rules 21(13) and 21(15) of the 2013 Rules. Learned counsel for the petitioners admitted that two years after the grant of the license to PALMA, the first elections of the Executive Committee of PALMA were held in the year 2023, and the members of the said Committee after the elections were the same as the ones before the elections. Additionally, it is also admitted that the existing membership of PALMA's Executive Committee violates Rule 21(6) of the 2013 Rules as two seats of the Executive Committee have not been reserved for women entrepreneurs.

12. True, given the fact that there are only 11 manufacturing concerns engaged in the business of artificial leather manufacturing in the whole of Pakistan, it is not possible for PALMA to show compliance with the requirements of Rule 21(13) or 21(15) of the 2013 Rules.

13. Any trade organization which is in the nature of an association cannot claim exemption from the applicability of any provision of the 2013 Act or the rules made thereunder unless an exemption in terms of Section 3(9) of the 2013 Act is granted to it by the Federal Government. Section 3(9) provides that the Federal Government may, by notification in the official Gazette, grant exemption to any trade organization from any provision of the 2013 Act and such exemption may be for such period and subject to such conditions as may be specified in the notification: provided that no such exemption shall be granted to a trade organization

UNCERTIFIED COPY

unless the Federal Government is satisfied that it would be in the public interest to do so. It is an admitted position that at no material stage has any exemption contemplated by Section 3(9) of the 2013 Act been granted by the Federal Government to PALMA.

14. It ought to be borne in mind that such exemption can be granted only by the Federal Government and not the DGTO, who is duty bound to ensure strict compliance with the requirements of the 2013 Act and the rules made thereunder. The terms of the license dated 25.11.2020 granted to PALMA does not exempt it from showing compliance with the requirements of the 2013 Act or rules made thereunder. An Executive Committee which is constituted or is operating in violation of the requirements of Rule 21 of the 2013 Rules cannot be held to be competent to nominate members for participating in the FPCCI Elections.

15. In view of the above, I do not find any merit in this petition, which is accordingly dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Ahtesham

UNCERTIFIED COPY