IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:
Mr. Justice Sardar Tariq Masood, HACJ
Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Athar Minallah

Constitutional Petition No.47/2023

Gohar Ali Khan ***...Petitioner(s)***

Versus

Federation of Pakistan, etc. ***...Respondent(s)***

For the petitioner(s): Mr. M. Shoaib Shaheen, ASC.
Mr. Niaz Ullah Khan Niazi, ASC.
Syed Rifaqat Hussain Shah, AOR.

On Court's call: Mr. Mansoor Usman Awan, Attorney General.
Mr. Zafar Iqbal Hussain, Spl. Secy. ECP/D.R.
Mr. M. Arshad, D.G. (Law) ECP
Mr. Falak Sher, Legal Consultant, ECP.

Date of Hearing: 22.12.2023

ORDER

Syed Mansoor Ali Shah, J.- Through this petition under Article 184 (3) of the Constitution of the Islamic Republic of Pakistan, Gohar Ali Khan, the Chairman of Pakistan Tehreek-e-Insaaf **("PTI")**, has approached this Court praying that the Election Commission of Pakistan **("ECP")** has to ensure free and fair elections in the country by providing a level playing field for the leaders and workers of the PTI. It is alleged that members of PTI, upon filing their nomination papers under the announced Election Programme, are being arrested, harassed and their nomination papers are being snatched from them which is blatant abuse of a fair and free electoral process. Learned counsel for the petitioner submits that in this regard they have approached the Election Commission of Pakistan under the Elections Act, 2017 **("Act")** by filing complaints, however, there has been no response on behalf of the ECP.

2. On Court's call, the learned Attorney General for Pakistan and the Representatives of ECP are present before the Court. The said Representatives at the very outset submit that certain complaints have been received by the ECP this morning, which will be immediately attended to. Both the Attorney General for Pakistan and the Representative of the ECP have assured the Court that elections will be held freely and fairly as mandated under the Constitution. They further assured the Court that the grievance of the members of the PTI or any other political party received by the ECP will be decided and resolved on urgent basis and in accordance with law and where any action is

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required to be taken such an action will be taken so that every political party in the country enjoys a level playing field and that the elections are conducted freely and fairly.

3. The ECP plays a crucial role in the democratic process, especially in conducting elections. Under Article 218(3) of the Constitution, ECP enjoys the constitutional responsibility to conduct elections honestly, justly, fairly and in accordance with law and to guard against corrupt practices. While under Article 220 of the Constitution all the executive authorities in the country shall assist the ECP in the discharge of its functions. ECP is to ensure that elections are conducted in accordance with the democratic principles and that elections are free from undue influence, coercion, and corruption. ECP is also to ensure that all political parties and candidates have an equal opportunity to participate in the election process. The importance of free and fair elections, and maintaining a level playing field during elections, cannot be overstated. Free and fair elections provide legitimacy to the elected government and maintain the trust of the public in the democratic process. A level playing field is essential for the healthy competition, ensuring that elections are a true reflection of the people's choice, rather than the result of manipulation or coercion. It is important to remember that "organizing free and fair elections is more important than the results itself"[1].

4. The petitioner or for that matter any person representing any other political party in the electoral process may approach the ECP today at 03:00 p.m. for the redressal for their grievance relating to the elections. ECP shall attended to these grievances on urgent basis and resolve them expeditiously in order to ensure that the electoral process remains smooth, open, transparent, free and fair. Let this exercise be completed by ECP promptly without disturbing the timelines given in the Election Programme because voters must have faith in the electoral process for our democracy to succeed.

5. This petition is disposed of in the above terms.

ACJ

Judge

Islamabad,
22nd December, 2023.
Approved for reporting
*Iqbal/**

Judge

[1] *Fatos Nano,* An Albanian socialist politician.

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