



GOVERNMENT OF PAKISTAN
DIRECTORATE GENERAL OF TRADE ORGANISATIONS
MINISTRY OF COMMERCE
State Life Building No. 7, 2nd Floor,
Blue Area, Islamabad



F. No. 9(7)/2013-TO

Islamabad, the September 13th, 2013

ORDER IN ORIGINAL NO. 14/2013

Passed by Mr. Muhammad Usman Qureshi, Director of Trade Organizations

Col ® Waqar Anwar etc

Versus

Election Commission, Gujranwala Chamber of Commerce & Industry (GCC&I)

Present in the hearing on 13-09-2013:

i) Mr. Ibtisam Rashid Mirza (advocate)

.....Petitioner

ii) Khawaja Tahir, Member Election Commission, GCC&I

iii) Mr. Ahmad Raza, Secretary General, GCC&I

.....Respondent

Date of Hearing: **13-09-2013**

Place of Hearing: **OFFICE OF DIRECTOR OF TRADE ORGANIZATIONS
DIRECTORATE GENERAL OF TRADE ORGANIZATIONS,
STATE LIFE BUILDING NO. 7, 2ND FLOOR, BLUE AREA,
ISLAMABAD.**

Date of issuance of Order: **13-09-2013**

ORDER:-

The honourable Lahore High Court, Lahore in its order dated 10.09.2013 in W.P. No.22152 of 2013 titled Col ® Waqar Anwar etc versus Federation of Pakistan, etc had directed the Regulator, Trade Organizations, Ministry of Commerce to decide the pending appeal of the Petitioner dated 29.08.2013 in accordance with law through a speaking order after hearing all necessary parties within four days of receipt of certified copy of the order of the honourable Lahore High Court so that the order of the Regulator is available to the Petitioner before 16.09.2013 being the polling date.

2. In exercise of powers conferred by sub-section 2 of section 22 of Trade Organizations Act, 2013, the Regulator of Trade Organizations delegated his powers to hear and pass an appropriate order on the appeal dated 29.08.2013 to the undersigned.

3. The appeal dated 29.08.2013 had been filed by the Col ® Waqar Anwar of M/s Anwar Brothers (petitioner), before the election commission of the Gujranwala Chamber of Commerce and Industry (herein after referred as Chamber) stating that he is a bona fide member of the Chamber and had submitted his nomination papers for the seat of Executive Committee of the Chamber and the scrutiny committee had rejected his nomination papers without assigning any cogent reason. The petitioner had prayed that his nomination papers for the seat of Executive Committee be accepted.

4. Pursuant to the order of the honourable Lahore High Court, a personal hearing to adjudicate on the appeal was held on 13.09.2013 at 2 p.m in the office of the undersigned in the Directorate General of Trade Organizations, Blue Area, Islamabad. Mr. Ibtisam Rashid Mirza, advocate, represented the petitioner whereas, Khwaja Tahir, member of election commission and Mr. Ahmad Raza, Secretary General of the Chamber represented the respondents.

5. Brief facts of the case are that the petitioner submitted his nomination papers for election as a member of Executive Committee of the Chamber during 2013-14 election. His nomination was rejected by the Chamber on the grounds that his nomination was seconded by M/s Crescent Star Horns and Hoof, which is not included in the valid voters list of the Chamber. The petitioner then filed an appeal dated 29.08.2013 before the election commission of the Chamber against the rejection of his nomination papers.

Thereafter, the petitioner approached the honourable Lahore High Court stating that the election commission of the Chamber has not conveyed any decision to him on his appeal. The matter was then referred to the Regulator, Trade Organizations for appropriate orders.

6. During the hearing the representative of the petitioner stated that the petitioner has not received the decision of the election commission of the Chamber on his said appeal. The member of the election commission stated that they have rejected the appeal of the petitioner but the petitioner failed to receive their order. However, the member of the election commission admitted that they did not send their reply to the petitioner. The petitioner also pointed out that M/s Crescent Star Horns and Hoof has been a member of the Chamber for a long time and Secretary General of the Chamber acknowledged that M/s Crescent Star Horns and Hoof has been a member of the Chamber since 1988.

7. Secretary General of the Chamber pointed out the name of M/s Crescent Star Horns and Hoof has not been included in the final voters list as its status was changed from a proprietorship to a partnership, which was conveyed to the Chamber on 25.02.2013, whereas, Income tax returns filed for the year 2012 show that they have been filed in capacity of an individual and not as an Association of Persons (AoP). He further pointed out that the partnership deed provided by M/s Crescent Star Horns and Hoof dated 2.08.2012 show that the firm has been operating as a partnership for the last one year, therefore, they should have filed income tax return as an AoP.

8. The representative of the petitioner stated that membership of M/s Crescent Star Horns and Hoof was renewed by the Chamber on 7.03.2013 till 31.03.2014 and if the Chamber had any reservation on the eligibility of membership of M/s Crescent Star Horns and Hoof, it should have been conveyed to them, which was not done by the Chamber. Secretary General of the Chamber could not provide any evidence that showed that the objections of the Chamber were conveyed to M/s Crescent Star Horns and Hoof. Furthermore, in case the Chamber had any objections against M/s Crescent Star Horns and Hoof, its membership should not have been renewed for another year.

9. Sub-section 7 of section 10 of Trade Organizations Act, 2013 stipulate that members of a trade organization who have completed two years of membership are eligible to vote in the elections of the trade organizations. Sub-rule 9 of rule 18 of Trade

Organizations Rules, 2013 require that the nomination paper of a person eligible to contest election should be proposed and seconded by a duly registered voter. The record of the Chamber shows that M/s Crescent Star Horns and Hoof was provided membership certificate of the Chamber by the Chamber itself in 2012 and 2013, which reflect that M/s Crescent Star Horns and Hoof has been a member of the Chamber for the last two years and hence eligible to vote in the 2013-14 election.

10. After hearing the parties at length, perusing the record, documentary evidence and relevant provision of laws and rules, the undersigned is of the view that the Chamber should have conveyed its objections to M/s Crescent Star Horns and Hoof, which it failed to do. It is not fair on the part of the Chamber to expect M/s Crescent Star Horns and Hoof to remove any objections which have not been conveyed to them. Furthermore, in case the Chamber had objections against membership of M/s Crescent Star Horns and Hoof, it should not have renewed its membership for the year 2013-14. Moreover, the Chamber did not cancel the membership of M/s Crescent Star Horns and Hoof. Therefore, the decision of the Chamber to not include the name of M/s Crescent Star Horns and Hoof in the final voters list despite the fact that it has been a continuous member of the Chamber for more than two years is not justified.

11. In view of the foregoing facts, reasons and provisions of law, the undersigned holds and declares as follows:

- i. M/s Crescent Star Horns and Hoof has been a member of the Chamber for the last two years and hence is eligible to vote in the 2013-14. The election commission of the Chamber is directed to include the name of M/s Crescent Star Horns and Hoof in the final voters list for 2013-14; and
- ii. The nomination papers of Col ® Waqar Anwar of M/s Anwar Brothers for election as member of Executive Committee of the Chamber are declared valid. Election Commission of the Chamber is directed to include the name of Col ® Waqar Anwar of M/s Anwar Brothers in the list of candidates contesting election on seats of Executive Committee of the Chamber.

(Muhammad Usman Qureshi)
Director (TO)

Announced Dated:- 13 -09-2013.