



**Government of Pakistan
Directorate General of Trade Organizations
(Office of Regulator of Trade Organizations)
Ministry of Commerce,
State Life Building No. 7, 2nd Floor, Blue Area,
Islamabad.**



F. No. 9(12)/2014-TO

Islamabad, the August 25, 2014

ORDER-IN-ORIGINAL NO. 9/2014

**Passed by Mr. Sajid Hussain, Regulator of Trade Organisations
(Under Sections 3(9) and 14 (1) & 14(3)(e),(f)&(g) of Trade Organisations Act, 2013)**

Mr. Amir Riaz Bhinder

Versus

***Surgical Instrument Manufacturers Association of Pakistan (SIMAP),
Sialkot***

Present in the hearing on 06-08-2014:

- i) Mr. Amir Riaz Bhinder
- ii) Malik Nasar, ex Chairman SIMAP
- iii) Mr. Zumar Dar
- iv) Mr. Abdul Haleem

.....Complainant(s)

- i) Mr. Fazal Jilani, Member Executive Committee SIMAP
- ii) Mr. Muhammad Ishfaq
- iii) Mr. Naeem JAVaid
- iv) Dr. Gohar Iqbal

.....Respondent(s)

Date of Hearing: **06-08-2014**

Place of Hearing: **OFFICE OF REGULATOR OF TRADE ORGANISATIONS**
Directorate General of Trade Organizations
State Life Building No.7 2nd Floor,
Jinnah Avenue, Blue Area,
Islamabad.

Date of issuance of Order: **25-08-2014**

By this Order, I intend to dispose of a complaint/ representation filed by Mr. Amir Riaz Bhinder, against Surgical Instrument Manufacturers Association of Pakistan (SIMAP), Sialkot [hereinafter referred to as "the Association"] in exercise of powers under Sections 3(9) and 14 (1) & 14(3)(e),(f)&(g) of Trade Organisations Act, 2013.

BRIEF FACTS:

2. Succinctly stating the facts that caused these proceedings are that an inveterate feud has been going on between Mr. Amir Riaz Bhinder and Surgical Instrument Manufacturers Association of Pakistan (SIMAP) which resulted into a plethora of litigation and inordinately delayed holding of elections for the year 2013-14 and 2014-15 as well. This Office made a number of efforts to reconcile both the rival groups and find a middle ground for resolving their outstanding issues but these efforts failed mainly due to litigation. Last effort was made in February 2014 when both the groups concluded an agreement to hold elections 2013-14 under auspices of election commission of Sialkot Chamber of Commerce & Industry (SCC&I) Sialkot. To supervise the elections, two officers were deputed from this Office who alongwith officials of SCC&I Sialkot and SIMAP scrutinized the final voter lists to allay concerns of Mr. Amir Riaz Bhinder and his group fellows regarding entries of bogus voters in the lists. After scrutiny, the electoral process resumed from the stage it was halted, i.e. submission of nomination papers by executive committee candidates. However, the electoral process was halted once again as it had been challenged by Mr. Amir Riaz Bhinder alongwith Mr. Sarfraz Ahmad Chaudhary before the Honorable Lahore High Court (LHC), Lahore through a Writ Petition No.10479/2014.

3. The said Writ Petition was disposed of by the Honorable Court on 14-05-2014 wherein Respondent No.2, i.e. SIMAP was directed to issue a fresh election schedule keeping in view Rule 18 of Trade Organisations Rules, 2013. It is pertinent to highlight here that according Rule 14 of Trade Organisations Rules, 2013 it was responsibility of Executive Committee and Secretary General SIMAP to issue a fresh election schedule. Order dated 14-05-2014 of the honorable LHC, Lahore was forwarded to SIMAP for compliance vide this Office's letters dated 27-05-2014 and 28-05-2014. In the meanwhile, SIMAP conducted election for office bearers on 30-05-2014 as per revised election schedule and announced results of the election of Executive Committee members and Office Bearers in Annual General Meeting held on 07-06-2014. Mr. Amir Riaz Bhinder having felt aggrieved filed Crl Orig. No.1356/2014 before the Honorable Lahore High Court, Lahore on the ground that SIMAP had not issued the election schedule in

accordance with Rule 18 of Trade Organizations Rules, 2013. He had filed Crl Orig. No.1356/2014 without approaching the Office of Regulator of Trade Organisations who is final forum of appeal in electoral matters as stipulated in clause (e) of sub-section (3) of Section 14 of Trade Organisations Act 2013 and sub-rules (7) & 13 of Rule 18 of Trade Organisations Rules, 2013. During proceedings of Crl Orig. No.1356/2014, this fact was brought to notice of the Honorable LHC, Lahore. Subsequently, Mr. Amir Riaz Bhinder filed the subject representation before Secretary Commerce and the Regulator of Trade Organizations on 02-07-2014 wherein he had prayed for appointment of an administrator for holding elections. He was called for personal hearing alongwith members of Executive Committee SIMAP on 06-08-2014.

4. During hearing proceedings, Mr. Amir Riaz Bhinder reiterated his stance that SIMAP failed to implement order of LHC Lahore dated 14-05-2014 and election schedule issued was not in accordance with Rule 18 of Trade Organizations Rules, 2013. On the other hand, Mr. Fazal Jilani argued that he was not present in Pakistan at that time and the rest of the members of Executive Committee issued election schedule for remaining stages of electoral process when the stay was granted by the honorable LHC, Lahore.

5. Due to incessant rivalry going on between the two groups and the resultant litigation, elections for 2014-15 have also been delayed. It has also affected adversely the day-to-day working of SIMAP as being a representative body of a vital export sector of Pakistan, it has to dispose of many an important tasks relating to export of surgical instruments. Making arrangements for running affairs of SIMAP under law/ rules has also become an obligation of this Office by now. The past record transpires that Executive Committee SIMAP complied with directions of this Office for holding election in time. Election Schedule and Election Commission were re-notified 4-5 times for satisfaction of the complainants but to no avail. The record also manifests that litigation was resorted to only by one group led by Mr. Amir Riaz Bhinder. Instead of fulfilling his commitments made at various stages, he used to institute another case. Executive Committee SIMAP could not be completed due to unnecessary litigation nor could they perform their duties smoothly.

ORDER

6. After hearing parties to the dispute at length, examining their statements, official record & other documentary evidence, and on the basis of facts and reasons discussed above, the following is held:

- i. Members of Executive Committee elected as a result of election schedule issued by SIMAP in compliance of Honorable LHC, Lahore have been restrained from working vide Order dated 11-07-2014 passed by the Honorable LHC, Lahore in Crl Orig. No.1356/2014. Hence, as far as validity of Executive Committee members and Office Bearers for year 2013-14 is concerned, this matter being subjudice before the Honorable LHC, Lahore can neither be discussed nor adjudicated upon by this forum at this conjuncture.
- ii. Executive Committee SIMAP had issued election schedule for year 2013-14 in time. After 30-09-2013, remaining members of the Committee also issued election schedule in compliance of directions passed by this Office but it could not be materialized mainly due to litigation. Keeping in view the track record, it is hereby held in the interest of the surgical manufacturing industry that eight members of Executive Committee SIMAP who are going to retire on 30-09-2014, ought to be allowed to make arrangements for election 2014-15. Circumstances don't warrant appointment of administrator.
- iii. In exercise of powers conferred under Section 3(9) of Trade Organisations Act, 2013 eight members of Executive Committee SIMAP due to be retired on 30-09-2014, are exempted from sub-rule (13) of Rule 21 of Trade Organisations Rules, 2013 and therefore allowed to continue working till 31-10-2014. They shall forthwith elect office bearers from amongst themselves to run affairs of the Association till 31-10-2014 and notify election commission and election schedule in accordance with law/ rules for 08 seats of Executive Committee which will be vacated as a result of completion of their tenure. .
- iv. In further exercise of powers conferred under Section 3(9) of Trade Organisations Act, 2013, Surgical Instrument Manufacturers Association of Pakistan is exempted from clause (b) of sub-rule (19) of Rule 18 of Trade Organisations Rules, 2013 and directed to finalise election 2014-15 before 31-10-2014.

(Sajid Hussain)
Regulator of Trade Organisations

Announced: Dated 25-08-2014

Copy for information and necessary action is forwarded to:-

1. Staff Officer to Secretary Commerce, A-Block, Pak Secretariat, Islamabad
2. Secretary General, Surgical Instrument Manufacturers Association of Pakistan, Near Sublime Chowk, Marala Road, Sialkot.
3. All members of Executive Committee, Surgical Instrument Manufacturers Association of Pakistan, Near Sublime Chowk, Marala Road, Sialkot.
4. Mr. Amir Riaz Bhinder, Bhinder Surgical Company (Pvt.) Ltd., Roras Street, Nowl Mor, Wazirabad Road, Sialkot.
5. Chief Executive, Trade Development Authority of Pakistan, 3rd Floor, Block A, Finance & Trade Centre P.O. Box No. 1293, Shahrah-e-Faisal, Karachi 75200 Pakistan
6. Secretary General FPCC&I, Federation House, Main Clifton, Karachi, Pakistan
7. Director TDAP, Muslim Colony, Gohadpur Road, Silakot

(Rizwan-ul-Haq)
Deputy Director