



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. 6(9)/2015-TO

Islamabad, the August 12th, 2015

ORDER IN ORIGINAL NO. 18/2015

Passed by Mr. Muhammad Usman Qureshi Director of Trade Organizations

Syed Abdul Hai Agha and Others

Versus

Election Commission
Chamber of Commerce and Industry, Quetta

Present in the hearing

- i). Syed Abdul Hai Agha
- ii). Mr. Shah Wali

...**Appellant/ Complainant**

- i). Mr. Rashid Mahmood, Secretary General
- ii). Mr. Agha Gul
- iii). Mr. Abdul Samad
- iv). Haji Abdul Wadood
- v). Mr. Akhtar Aziz, Advocate

.....**Respondents**

Date of Hearing: **11-08-2015**

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

Date of issuance of Order: **12-08-2015**

By this order the undersigned intends to dispose of an appeal filed by Syed Abdul Hay Agha and others against the decision of election commission of Quetta Chamber of Commerce and Industry, Quetta (QCCI).

2. The appellants alleged that they had raised a number of objections on the provisional voters list before the election commission of QCCI, which were rejected without considering the provisions of Memorandum and Articles of Association of QCCI. The issues raised in the appeal are as follows:

- i. Hajj companies are not eligible to become members of QCCI and hence they may be deleted from the voters list;
- ii. Fifteen companies, which were deleted from the voters list by the scrutiny committee in September 2014, have been included in the voters list. These companies may be deleted from the voters list;
- iii. Firms who failed to pay renewal fee amounting to Rs 68,800/ by 31st March 2014 and Rs 157,500/ by 31st March 2015 may be deleted from the voters list;
- iv. Elections for corporate class be held on seven seats instead of two seats, as during last year election for corporate class was held on five additional seats, whose tenure would expire on 30.09.2015;
- v. Non approved and bogus firms may be deleted from the voters list; and
- vi. Provisional voters list was not displayed on the website of QCCI, which deprived members from raising objection on the voters list.

3. In order to decide the appeal hearing was held in the office of the undersigned on 11.08.2015. Two of the appellants, members of election commission and secretary general of QCCI were present in the hearing.

4. During the hearing the appellants pointed out that Hajj companies are service providers and could not be categorized as business concerns, who are eligible to become members of QCCI. The election commission in its order had rejected the contention of the appellants and pointed out that Hajj companies qualify the criteria given in rule 11 of Trade Organizations Rules, 2013 for membership of QCCI.

5. Regarding the issue of inclusion of fifteen companies in the provisional voters list, which were deleted from the voters list by the scrutiny committee in September 2014, Secretary General of QCCI stated that only five companies have been included in the voters list as they provided all the documents required for grant of membership. The files of the five members were

also shown to the undersigned. It may however, be pointed out that in its order the election commission had stated that all fifteen members are eligible for grant of voting rights and hence their inclusion in the voters list is lawful.

6. Thereafter the issue of members who had failed to pay the membership fee by 31st March 2014 and 2015 was discussed. Secretary General of QCCI pointed out that members who had not paid renewal fee by 31st March 2014 deposited the fee amounting to Rs 68,800/ during August 2014. The appellants pointed out that members who failed to pay renewal fee by 31st March 2014, ceased to be members of QCCI. Therefore, after payment of renewal fee during August 2014, they would be eligible to vote after completion of one year. As regards failure of members to pay renewal fee amounting to Rs 157,500/ by 31st March 2015, it was pointed out by Secretary General that members had paid the said amount to QCCI by 31.03.2015 and the amount was deposited in the account of the Chamber on 1.04.2015.

7. Then the issue of holding election on the number of seats of corporate class was taken into consideration. The appellants pointed out that five corporate members of executive committee who were elected in 2013-14 were disqualified prior to holding of 2014-15 election; hence election in 2014-15 were held on five additional seats. The appellants were of the view that tenure of members elected in 2014-15 on five additional seats would expire on 30.9.2015 and hence election in 2014-15 should be held on seven seats and not only two seats. The election commission had rejected the plea of the appellants on the grounds that the office of DGTO in its letter dated 7-7-2015 informed that members elected in 2014-15 would complete their two years tenure.

8. Thereafter the issue of non-approved and bogus firms was discussed. The appellants provided a list of twenty six companies whose names appeared on the list of corporate voters but were not eligible to be included in such list. The appellants provided copies of list of corporate members issued by QCCI for 2013-14 and 2014-15 and claimed that the names of the companies were not included in list of corporate members of QCCI for the years 2013-14 and 2014-15. Hence, these companies had not completed two years of valid corporate membership to be eligible to cast vote in 2015-16 election. The appellants also provided a list of associate members who they claimed have bogus NTN and hence are not eligible to become members of QCCI. However, they failed to provide any evidence that NTN of the members were bogus.

9. The last objection raised by the appellants was that QCCI was required to upload its provisional voters list by 10-7-2015, whereas, QCCI uploaded the list on 28-7-2015.

The Secretary General of QCCI intimated that voters list was displayed on the notice board on time and due to some technical difficulties it was uploaded on website of QCCI after a delay of two days.

10. After hearing the parties at length, perusing the record and relevant provisions of law, the undersigned is of the view that:

- i. Clause (b) of sub-section 2 of section 3 of Trade Organizations Act, 2013 clearly stipulates that the Chamber of Commerce and Industry would be organized to represent trade, services and industry in a district. It is evident that service providers of a district are eligible to become members of a Chamber of Commerce and Industry of the said district. Hence, Hajj companies located in Quetta are eligible to become members of QCCI;
- ii. The five companies whose names have been included in this year's voters list were removed from the previous year's voters list on the grounds that the documents required for grant of corporate membership were not available in the record of QCCI. The Chamber has included their names in this voters list on the basis that they have submitted the required documents. Submission of documents by the five companies makes them eligible to become corporate members but it does not automatically qualify them to be eligible voters. They would be eligible to vote after completion of two years of valid corporate membership;
- iii. Failure by a member to pay renewal fee by 31st March results in cancellation of its membership, which would be renewed from the date to payment of renewal fee. Proviso of clause (a) of sub-rule 1 of rule 15 of Trade Organizations Rules, 2013, stipulates that old members shall be eligible to vote on completion of one year of their enrollment and payment of all dues. Hence members who paid their renewal fee in August 2014 are not eligible to vote in the 2015-16 election as period of one year has not elapsed at the time of announcement of election schedule of QCCI for 2015-16 election. However, members who had paid their renewal fee by 31st March 2015, which was deposited by QCCI on 1st April 2015 in the bank account of the Chamber are eligible to vote in 2015-16 election;
- iv. The office of DGTO vide its letter dated 7.07.2015 has already given its clarification that according to sub-rule 13 of rule 21 of Trade Organizations Rules, 2013, the tenure of members of executive committee is two years; and
- v. Out of the list twenty six companies provided by the appellants, names of only nine companies were found in the list of corporate members for the year 2014-15 provided

by QCCI to the office of DGTO. It shows that the remaining companies have not completed the mandatory two years requirement for grant of voting rights and hence are not eligible to be included in the voters list of corporate class for 2015-16. Regarding the objection of bogus NTN of voters of in associate class, the appellants failed to provide any evidence that showed that the NTN of firms listed in voters of associate class are fake.

11. In view of the above, Secretary General and Election Commission of QCCI are directed to revise the voters list for 2015-16 according to the following directions:

- i. The fifteen companies whose names were removed from the voters list for 2014-15 by the scrutiny committee in September 2014 be removed from voters list of corporate voters for 2015-16. In case as claimed by the Secretary General, only such five companies are included in the voters list, the names of those companies be removed from voters list of corporate voters for 2015-16;
- ii. The names of members of QCCI who failed to pay their renewal fee amounting to Rs 68,800/ by 31st March 2014 and paid their fee during August 2014 be removed from the voters list for 2015-16; and
- iii. The names of companies listed in voters list of corporate class at serial numbers 33, 40, 44, 59, 62, 66, 68, 76, 79, 84, 99, 102, 103, 110, 115, 122 and 125 be removed from list of voters of corporate class for 2015-16.

(Muhammad Usman Qureshi)
Director (TO)

Announced Dated:-12 -08-2015.