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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(08)/2014-TO

Islamabad, the February 16th, 2015

ORDER IN ORIGINAL NO. 03/2015

Passed by Mr. Sajid Hussain Regulator of Trade Organizations

Mr. Nasir Hussain and others
Versus

Gilgit Chamber of Commerce and Industry

Present in the hearing

- i. Mr. Nasir Hussain
- ii. Mr. Sifat Shah
- iii. Mr. Saeed Iqbal Advocate

.....**Appellants**

- i. Mr. Javed Hussain, President GBCC&I
- ii. Mr. Arman Shah, Vice President GBCC&I
- iii. Mr. Amjad Advocate

.....**Respondents**

Date of Hearing: **21-02-2015**

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: **16-02-2015**

By this Order, the undersigned intends to dispose of a complaint filed by Mr. Nasir Hussain and Others against Gilgit Baltistan Chamber of Commerce and Industry, now Gilgit Chamber of Commerce and Industry.

2. Brief facts of the case are that elections of Gilgit Chamber of Commerce and Industry hereinafter read as Chamber for the years 2014-15 were conducted. The Office of Regulator of Trade Organizations received a complaint on 25-09-2014 wherein it was, inter alia, alleged that elections of the Chamber were not conducted in accordance with Trade Organizations Act, 2013, and Trade Organizations Rules, 2013. Neither was issued the election schedule nor was the Election Commission constituted in accordance with Rules 14 and 16 of Trade Organizations Rules, 2013. The election process was conducted and supervised by Deputy Commissioner, Gilgit, in violation of statutory provisions of Trade Organizations Act, 2013, and rules made there under. To take a decision in the matter the Office of Regulator of Trade Organizations sought comments of the Secretary General of the Chamber on 09-10-2014. The Secretary General of the Chamber conceded that the procedure as laid down in Trade Organizations Rules, 2013, for holding elections was not followed while conducting elections for the year 2014-15. Simultaneously, the complainant filed a Writ Petition No 92 of 2014 before the Chief Court, Gilgit-Baltistan which was disposed of by the Honorable Court with the direction to the parties to approach the Office of Regulator of Trade Organizations being the relevant forum.

3. In order to decide the complaint, both the parties were directed to appear before the Regulator of Trade Organizations for personal hearing on 21-1-2015. In compliance thereof, the parties concerned appeared for the hearing on the specified dated. The views ported of the parties were recorded by the Directors of the office of the Regulator of Trade Organizations.

4. Both the parties presented their viewpoints in detail supported by documentary evidences of their respective positions. The Appellants alleged that serious irregularities were committed in the elections of the Chamber for the year 2014-15, which breached the Trade Organizations Law and provisions of the Memorandum & Articles of Association. They were of the view that the newly elected management, which emerged as a result of the sham election, had no legality, and therefore be declared null and void. The Appellants forwarded the following arguments in support:-

- i. Neither was the Election Schedule announced in accordance with Rule 14 of the Trade Organizations Rules, 2013, nor was the Election Commission appointed in the manner prescribed in Rule 16. Election Commission is required to be consisted of 3 members from the trade Organization, whereas the Secretary General in connivance with certain members of the Executive Committee of materialized the nomination of Additional Deputy Commissioner, Gilgit as returning officer on 16th September, 2014, with malafide intention. Involvement of the local administration in the election of the Chamber was contrary to the law.

- ii. The Final voters list was prepared in violation of the law as majority of the members, 200 out of 256 members, had failed to renew their membership by the statutory requirement of 31st March. Therefore, they were not eligible to cast their votes. As a result of this unlawful act, seven members of the Chambers who had not renewed their membership by the stipulated time were elected as members of the Executive Committee for two years.
 - iii. The Executive Committee unlawfully allowed renewal of membership up to 15th September, 2014, and fixing 25th September 2014, as the last date of submission of nomination papers, filing objections and scrutiny and polling day on 29th September 2014, which was a clearly a violation of the law.
5. While countering the viewpoint of the Appellants, the Respondents contended that they might not be held responsible for the acts and omissions of the previous Executive Committee. While referring to the endorsement by the Appellant(s) of the resolution of the 25th August, 2014, resolving to postpone the election, the Respondents questioned the moral standing of the Appellants' right to challenge the election process of the chamber, expressing serious reservations over the soundness of their mental approach to the issue.
6. The Respondents were of the view that even if it was assumed that elections were held in violation of the law, it was solely the making and handiwork of the Appellant(s) who had endorsed the alleged unlawful act of passing an unlawful resolution. The following arguments were put forward in defense:-
- i. The delay in announcing the election schedule was due to the disturbances created by some members of the Chamber, whose sole aim was to delay the election by creating hurdles in the process of election. Moreover, the Appellants were also to be held responsible for endorsing the resolution of 25th August, 2014, resolving to postpone the election and unlawfully fixing the 15th September, 2014, as the last date for renewal of membership.
 - ii. Given the failure of the Executive Committee to announce election schedule and appoint an Election Commission, the Secretary General had to request the district administration to conduct election of the Chamber, as per past practice.
 - iii. Voters list was prepared in accordance with the rules; however, this was contradicted by the Appellants by referring to the resolution of 25th August, 2014, and producing Bank Deposit Slips that showed the deposits of membership fee much later than the stipulated time of 31st March.
 - iv. The applicants' panel did not object to the irregularities in the election process at the time of contesting the election. Following their failure to get their nominated members elected and getting the desired results, the Appellant started to agitate the issue of irregularities in the election process.

7. After hearing the parties and perusal of the relevant record produced during the hearing, serious violations of the law in the election process of the Chamber were noted. The provisions of Rule 13 to Rule 19 of Trade Organizations Rules, 2013, were markedly violated, which provides a very elaborate procedure and timescale to conduct the election. Elections schedule is required to be announced in the first half of July as per Rule 14(1)(b) to complete the process accordingly. Belated announcement of the election schedule leads to curtailment of the whole process, which is a clear failure to hold the election fairly, impartially and in a transparent manner acceptable to the stakeholders. In such circumstance, it will be extremely impossible to make sure the norms of justice prevail.

8. The Chamber had failed to announce the elections schedule for the year 2014-15, as per law. Moreover, the provisions of Rule 16 of Trade Organizations Rules, 2013, which requires the appointment of Election Commission, were grossly violated. The office of the Regulator (TO) had taken cognizance of these irregularities and had sought explanation from the Chamber on 17th October 2013. The Executive Committee had exhibited a very serious lack of knowledge of the law by resorting to passing unlawful resolution. The voters' list was prepared in violation of Rule 11 (5)(a), which requires renewal of membership subject to payment of prescribed subscription by 31st March. The Executive Committee is not competent to extend the last date for renewal of membership. The resolution of 25th August, 2015, put a question mark on their capacity to run affairs of the Chamber in accordance with the law. Moreover, there is no role of the district administration in holding election of the Chamber. The request of the Chamber to Deputy Commissioner, Gilgit to conduct the election was a clear breach of the law.

9. After perusing the report submitted by the Officers of Directorate General of Trade Organizations, taking into consideration the relevant provisions of Trade Organizations Act, 2013 and Trade Organizations Rules, 2013 into consideration this forum holds as under:-

- i) Election of Gilgit Chamber of Commerce and Industry for the year 2014-15 is hereby declared null and void.
- ii) In order to hold elections for the year 2014-15, the remaining members of the Executive Committee are directed to announce Election schedule within seven days from the date of issuance of this Order and constitute election commission.
- iii) Till the completion of elections the day to day affairs of the Chamber shall be managed by the remaining Executive Committee Members of the Chamber who shall choose one member as its Chairman.

(SAJID HUSSAIN)
Regulator (TO)

Announced Dated:-16 -02-2015.