IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Bench-II:
Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Muhammad Ali Mazhar
Mr. Justice Athar Minallah

C.P.L.A.1328/2024 to C.P.L.A.1329/2024 and CMA 3554/2024
(Against the judgment of Peshawar High Court dated 25.03.2024, passed in Writ Petition No.1272-P/2024, etc.)

Sunni Ittehad Council, Faisalabad, etc.

..... Petitioner(s)

Versus

Election Commission of Pakistan through its Secretary, Islamabad, etc.

....Respondent(s)

For the petitioner(s):	Mr. Faisal Siddiqui, ASC. Barrister Gohar Ali Khan, ASC. Mr. Salman Akram Raja, ASC.
(Through V.L. Lahore	Mr. Sameer Khosa,ASC Syed Rifaqat Hussain Shah, AOR. Mr. Muhammad Usman Mirza, AOR.
For the respondent(s):	Mr. Mansoor Usman Awan, AGP. Ch. Aamir Rehman, Addl. AGP. Mr. Sikandar Bashir Mohmand, ASC. Zafar Iqbal. Sp. Secy. (ECP) Mr. M. Arshad, D.G. (L) (ECP) Khurram Shahzad, ADG(L) Mr. Falak Shair, L.C. (ECP) Mr. Amir Javed, ASC.
Date of hearing:	06.05.2024

ORDER

Syed Mansoor Ali Shah, J.- Learned counsel for the petitioners submits that allocation of the reserved seats for women and non-Muslims to the political parties other than the petitioner, Sunni Ittehad Council **("SIC")**, is in violation of Article 51(6)(d) & (e) of the Constitution of the Islamic Republic of Pakistan ("**Constitution**") which provides for proportional representation system on the basis of total number of general seats secured by each political party from the Province concerned in the National Assembly. Once a political party has been allocated the reserved seats on the basis of proportional representation system, the remaining seats cannot be re-allocated to the same political party. As per Letter issued by the Election Commission of Pakistan dated 25.04.2024, he submits, it has been

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acknowledged that SIC is a parliamentary party having 82 general seats in the National Assembly. Therefore, SIC is entitled to reserved seats as per the proportional representation system in terms of Articles 51(6)(d) & (e) and 106(2)(c) of the Constitution.

2. On the other hand, Mr. Sikandar Bashir Mohmand, learned counsel for the Election Commission of Pakistan **("ECP")**, submits that according to Articles 51 and 106 of the Constitution the reserved seats have to be allocated on the proportional representation system only to those political parties who have contested the general elections and won atleast one seat in the said elections. Since SIC did not contest the elections and did not win even a single seat in the general elections, it cannot be considered as a political party in terms of Articles 51(6)(d) & (e) and 106(2)(c) of the Constitution, for the purpose of allocating the reserved seats. Learned Attorney-General for Pakistan ("**AGP**") supports the contentions of the learned counsel for the ECP. Both the learned counsel for ECP and the learned AGP frankly concede that this is a case of first impression involving questions of constitutional law that have not been addressed by the Court earlier.

3. The above questions of allocation of reserved seats in the National and Provincial Assemblies touch upon the foundational constitutional concept of a parliamentary democracy that the voice of the electorate is truly reflected in the composition of the assemblies. Democratic mandate necessitates that the allocation of reserved seats enhances the representativeness of the electorate in the assemblies and upholds the principles of fairness and transparency in the electoral process. It is paramount to prioritize the integrity of the elections so that the Parliament remains a true reflection of the will of the people.

4. Therefore, leave to appeal is granted to consider, amongst others, the said questions. The appeals are to be posted for hearing on 03.06.2024. The appeal arising out of these petitions will be heard on the basis of available record; however, both sides are at liberty to file any additional documents, which were part of the record before the fora below but have not been filed with instant petitions.

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5. Notices under Order XXVII-A CPC be issued to the learned AGP as well as the Advocates-General of the Provinces.

CMA 2920 of 2024:

6. Notice for the same date. In the meanwhile, operation of the impugned judgment of the Peshawar High Court dated 25.03.2024, as well as, the order of the Election Commission of Pakistan dated 01.03.2024 is suspended. It is, however, clarified that this interim order relates to the disputed seats only, i.e., the reserved seats allocated over and above the initially allocated reserved seats to the political parties. It is also clarified that this order is to operate prospectively, w.e.f., from today.

CMA 3554/2024:

7. Notice. To be heard alongwith CPLA No.1328/2024 on 03.06.2024.

8. Since the questions under consideration require constitutional interpretation, the matter be placed before the Committee under Section 4 of the Supreme Court (Practice and Procedure) Act, 2023 for constitution of a larger bench to hear the appeals.

Judge

Judge

Judge

Islamabad,
6th May, 2024.
Approved for reporting
Iqbal

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