

Speaker



National Assembly of Pakistan
Sardar Ayaz Sadiq

Islamabad, the 19th September, 2024

The Election Commission of Pakistan

Election House, Constitution Avenue

Islamabad

Subject: **IMPORTANCE OF UPHOLDING PARLIAMENTARY SOVEREIGNTY
AND ALLOCATION OF RESERVE SEATS**

As Speaker of the National Assembly, I wish to address an issue of paramount importance: the concept of parliamentary sovereignty and its implications for our democratic process. Upholding the principles of parliamentary sovereignty are essential in maintaining the integrity and independence of our parliamentary system. Any actions perceived as undermining the sovereignty of the Parliament can erode public trust and confidence in our institutions.

2. The Honourable Supreme Court of Pakistan in its judgment titled Sunni Ittehad Council and others versus Election Commission of Pakistan dated 12.7.2024 reported as **2024 SCP 236**, has directed the Election Commission of Pakistan (hereinafter "ECP") to allow independent returned candidates to join another political party months after already joining a political party as a result of the General Elections 2024 (hereinafter the "**Judgment of the SC**"). In effect, the Judgment of the SC has allowed a returned candidate to switch political parties.

3. After the Judgment of the SC, the Parliament (Majlis-e-Shoora) has been pleased to pass the Elections (Second Amendment) Act, 2024 which received the assent of the President on 7th August 2024 and was published in the Gazette of Pakistan on 9th August 2024 (hereinafter the “**Amended Election Act**”). Two particular provisions of the Amended Election Act are particularly relevant for your consideration and the same are reproduced hereunder for ready reference:

Amendment to Section 66 of the Election Act, 2017:

“Provided that if a candidate, before seeking allotment of a prescribed symbol, has not filed a declaration before the Returning Officer about his affiliation with a particular political party by submitting party certificate from the political party confirming that he is that party’s candidate, he shall be deemed to be considered as an independent candidate and not a candidate of any political party.”

Amendment to Section 104-A of the Election Act, 2017:

“Notwithstanding anything contained in this Act or rules or any other law, for the time being in force, or a judgment, decree or order of any court including the Supreme Court and a High Court, the declaration, consent or affidavit, by whatever name called, of an independent returned candidate once given for joining a political party shall be irrevocable and cannot be substituted or withdrawn.”

4. Furthermore, Section 1 (2) of the Amended Election Act categorically states that the said amendments will have retrospective effect from 2017 when the Election Act 2017 was passed.

5. In view of this backdrop, it is stated that independent returned candidates who have already given a joining to a political party cannot be allowed to now switch parties in terms of the Amended Election Act which has paramount and overriding effect. No allocation can now be made by the ECP without applying the Amended Election Act to the fullest. As the Judgement of the SC was rendered based on the law prior to the enactment of the amendment, the said judgment is now incapable of implementation.

Instead, it is the Amended Election Act that shall prevail and supersede the prior ruling. It is pertinent to mention here that the above is not only my view but in fact is the consistent jurisprudence of the Honourable Supreme Court as well.

6. It is also brought to your kind notice that the Amended Election Act is in the field, therefore, it is the statutory obligation of the ECP to honor the laws made by Parliament and uphold the principles of democracy and parliamentary supremacy.

Warm Regards,



Sardar Ayaz Sadiq
(SARDAR AYAZ SADIQ)

Copy forwarded to :

- i. The Chief Election Commissioner, Election Commission of Pakistan, Islamabad.
- ii. All Members, Election Commission of Pakistan, Islamabad.
- iii. The Secretary, Election Commission of Pakistan, Islamabad.