

ELECTION COMMISSION OF PAKISTAN

ORDER

22-03- 2023

**CONDUCT OF GENERAL ELECTIONS TO THE PROVINCIAL
ASSEMBLY OF PUNJAB**

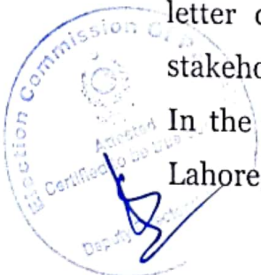
WHEREAS, the Election Commission of Pakistan (“**Commission**”) is a creation of the Constitution of Islamic Republic of Pakistan, 1973 (“**Constitution**”) constituted under Article 218 (1) of the Constitution for the conduct of election to both the houses of Majlis-e-Shoora (Parliament), Provincial Assemblies and such other offices as specified by law.

AND WHEREAS, in terms of Article 218(3) of the Constitution, the Commission is mandated and charged with the duty to organize and conduct the election and to make such arrangements as are necessary to ensure that election is conducted honestly, justly, fairly and in accordance with law and that corrupt practices are guarded against.

sd/- **AND WHEREAS**, in terms of Article 220 of the Constitution it shall be the duty of all executive authorities in the federation and in the provinces to assist the Commissioner and the Commission in the discharge of his or their functions.

AND WHEREAS, on dissolution of the Provincial Assembly of Punjab, in terms of Article 112(1) of the Constitution, on 14th January, 2023, the Commission, being cognizant of its responsibility, approached the Governor Punjab vide letter dated 24th January, for appointment of date of poll between 9th - 13th April, 2023, followed by a reminder dated 29th January, 2023. The proposal of the Commission was however, not acceded to by the Governor for appointing a poll date. The Hon’ble Governor vide letter dated 1st February, 2023, requested the Commission to consult relevant stakeholders with regards to prevailing security and economic situation of the country.

In the meanwhile, three Writ Petitions were filed before the Lahore High Court, Lahore, regarding announcement of poll date. The said Petitions were decided and the

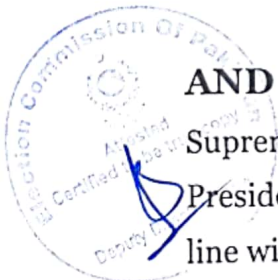


Commission was directed to announce the poll date after consultation with the Governor Punjab.

AND WHEREAS, as per the direction of the Honorable Lahore High Court, the process of consultation was diligently carried out, however, the Governor Punjab did not prefer to appoint a date on the ground that he had not dissolved the Assembly and was not obligated to appoint a poll date. Meanwhile the matter was taken up by the august Supreme Court through a Suo Moto Case No.01 of 2023 and being clubbed with two other Constitutional Petitions No 1 and 2 of 2023 filed by Islamabad High Court Bar Association and Mr. Muhammad Sibtain Vs Election Commission of Pakistan on 23-02-2023. After hearing the matter in detail, the apex Court announced the order on 1-03-2023 in the following terms:

“14. a. In ordinary circumstances the general election to the Punjab Assembly ought to be held on 09.04.2023, the date announced by the President in terms of his order of 20.02.2023. However, we are informed that on account of the delay in the emergence of the date for the holding of the general election, it may not be possible to meet the 90 days deadline stipulated by the Constitution. It is also the case that (possibly on account of a misunderstanding of the law) the Election Commission did not make itself available for consultation as required under s. 57(1) of the 2017 Act. The Election Commission is therefore directed to use its utmost efforts to immediately propose, keeping in mind ss. 57 and 58 of the 2017 Act, a date to the President that is compliant with the aforesaid deadline. If such a course is not available, then the Election Commission shall in like manner propose a date for the holding of the poll that deviates to the barest minimum from the aforesaid deadline. After consultation with the Election Commission the President shall announce a date for the holding of the general election to the Punjab Assembly.

AND WHEREAS, in compliance with the directions rendered by the august Supreme Court, the Commission wrote a letter dated 03-03-2023 to the Honorable President of Pakistan, with proposed poll date between 30th April to 7th May 2023 in line with the requirements of Section 57 of the Elections Act, 2017. In response to the



letter, the Hon'ble President of Pakistan on the same date announced 30th April 2023 as the poll date, for General Elections to the Provincial Assembly of Punjab.

AND WHEREAS, in order to fulfill its Constitutional and statutory duty to organize and conduct the election in accordance with law in a peaceful manner, the Commission even before the order of the apex Court, had already taken steps and had written letters dated 2nd February, 2023, to the Ministry of Interior and Defense for deployment of Pakistan Army / Rangers and Frontier Corps at all the Polling stations established for conduct of general election to the Provincial Assembly of Punjab in static mode, in view of the heightened security situation in the province and the recent terrorist wave. The Chief Secretary and Inspector General of Police of the Punjab were also called by the Commission on 8th February, 2023, for briefing on the prevailing law and order situation and arrangements regarding general elections to the Provincial Assembly of Punjab. During the meeting IGP Punjab informed the Commission about the serious law and order situation quoting various incidents as under:

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- i. On 3rd January, 2023 two ISI officers martyred in Khanewal.
 - ii. Attack on Police Post Jhangi, Taunsa, DG Khan on 13th January, 2023.
 - iii. Attack on Police Station Makarwal, Mianwali on 31st January, 2023.
 - iv. Incident of IED blast in Jaffar Express at Sahiwal on 16th February, 2023.
 - v. Approximately, 100 "Tashkeels" have entered the Province of Punjab for carrying out terrorist attacks.
 - vi. Presence of Baloch sub-nationalist in Kacha areas of Rajanpur involved in subversive activities.
 - vii. In past two months, more than 213 incidents of terrorism have been prevented due to advanced intelligence based information in Lahore, Sheikhpura, Sahiwal, Gujranwala, Dera Ghazi Khan and Rawalpindi.
 - viii. There are serious live terrorism threats to the Lahore Police Lines, Mianwali, Bhakkar and DG Khan;
 - ix. Clean-up operations are underway for eradication of terrorist activities, which may take 4-5 months to finalize and police is heavily committed in this regard;
 - x. For deputation on election duty, short-fall of police is 386,623 (Three Hundred and Eighty-Six Thousand Six Hundred and Twenty-Three approx) in Punjab which can only be covered by deploying Army and Rangers in

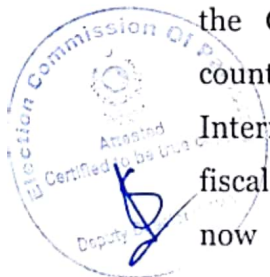


static mode on all the polling stations keeping in view the current law and order situation in highly charged and polarized political atmosphere.

AND WHEREAS, Ministry of Interior vide letter dated 08-02-2023 conveyed that deployment of civil and Armed forces as required by the Commission in static mode on the polling stations of the constituencies would not be possible, as advised by the Military Operations Directorate. The Ministry of Interior attributed their position due to spike in incidents of terrorism across the country whereby the armed forces are deployed on the borders, internal security duties, protecting key installations, foreigners security etc. It was also added that the intelligence agencies and NACTA had issued threat alerts. Despite this, serious incidents were reported including the major one in Police Lines Peshawar during Juma prayers on 30-01-2023 resulting in death of 93 people and injuring many. They also conveyed that the leaders of the political parties are also on the hit list of terrorist organizations which could be potential targets during the election campaign. The troops are also deployed for duties in connection with ongoing census of 2023 across the country. Therefore, in their view the conduct of General Elections in the Province of Punjab assembly is not feasible on already announced date.

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AND WHEREAS, after the decision of the apex Court, the Commission again contacted the Ministry of Interior and Ministry of Finance for a meeting on 9th March, 2023 at 12.30 PM at ECP Secretariat regarding conduct of General Elections to both the Assemblies and for their comprehensive briefing on provision of fool-proof security arrangements in both the Provinces.

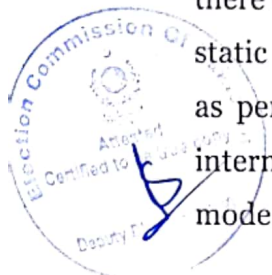
AND WHEREAS, Special Secretary Interior during the above said meeting briefed the Commission that free, fair and peaceful elections are not possible due to deteriorating law and order situation, charged political environment, serious threat to the political leaders/politicians; which actually extends to not just the poll day but in the entire run-up period of the election campaign and this will also expose the public as well as the leaders to heightened risk of terrorism. Secretary Finance while briefing the Commission stated that due to the paucity of funds and financial crunch, the country is facing an unprecedented economic crisis and it was under compulsion by International Monetary Fund (IMF) program which has set targets for maintenance of fiscal discipline and deficit, and it would be difficult for Government to release funds now for General Elections to the Provincial Assemblies of Punjab, Khyber



Pakhtunkhwa and later for General Elections to National Assembly, Provincial Assemblies of Sindh and Baluchistan. Secretary Finance informed the Commission that he will get instructions from the Federal Government. The Federal Government has conveyed that due to critical economic situation of the country it will be very difficult to provide funds for the elections at the moment and additional funds for the staggered elections.

AND WHEREAS, the Commission convened a meeting on 10-03-2023 with Sector Commander ISI, Punjab, KPK and ICT, DIG (CTD) Punjab and AIG (CTD) KPK, Joint DG (IB) Punjab and KPK regarding prevailing law and order situation and allied matters for up-coming general elections in Punjab. He was of the view that they might not be able to assist the Commission for conduct of General Elections on two different dates, which may expose the voters, election staff and law enforcing agencies twice to terrorism. In addition to this he informed the Commission that there is a strong possibility of kidnapping of election officials during the conduct of upcoming elections and peaceful election in this precarious law and order situation and highly charged political atmosphere, will not be possible. DIG, CTD Punjab stated that from October, 2022 there was considerable increase in the number of incidents relating to terrorist activities, as compared to last few years in Punjab Province and he informed the Commission that there is 3-4 times increase in acts of terrorism and there were special threat alerts targeting political personalities. Joint DG Intelligence Bureau, Punjab informed the Commission that law and order situation in Punjab is dicey and free and fair elections can only be carried out after cleanup operation by the agencies. He in quite clear terms recommended not to hold elections at this point of time.

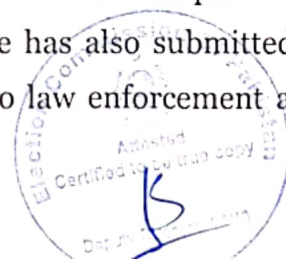
AND WHEREAS, on 14th of March, 2023 the Commission convened a meeting with Chief Secretary Punjab, Ministry of Defense, and Inspector General of Police Punjab regarding smooth conduct of General Elections to the Provincial Assembly of Punjab. Secretary, Defence while apprising the Commission highlighted the overall security situation in the country and said that the primary task of the Pak Army is to thwart the existential / perpetual threats to the national security of the country and there could be no compromise to this effect. He further briefed that there would be no static / physical deployment of troops at polling stations in the forthcoming elections as per strategy adopted during the conduct of bye-elections. Due to external and internal security situation the Army may only be available for placing in QRF, 3rd tier mode. However, the deployment of Pak Army is the sole discretion of Federal



Government and it has to decide whether the deployment of Pak Army is essential to secure the borders, fend off external threats and ensure security of general public as its primary duty or to engage the army for election duties which is a secondary duty. He further informed that security situation in country has aggravated in the backdrop of US withdrawal from Afghanistan in August, 2021 and security calculus is alarmingly high. Since January, 2023, 252 incidents of terrorism took place and are intensifying with each passing day, particularly cross border incursion. He further added that there have been 3600 major operations in the country; Punjab: 61, Sindh: 367, Khyber Pakhtunkhwa: 1245 and Baluchistan: 1960.

AND WHEREAS, the Commission approached the Federal Government to provide necessary guidance and decision of the Federal government with regard to the briefing given by the Ministry of Defence referred hereinabove. The Federal Government in response to the letter has endorsed the proposal of the Defence Division regarding inability of armed forces to perform static duties during elections.

AND WHEREAS, the Chief Secretary during the meeting on 14th March, 2023, categorically stated that due to financial conditions and deteriorating law and order situation in the province, foolproof security for the conduct of elections on 30th April, 2023 cannot be ensured until the assistance of armed / civil armed forces is not provided to the police. He further stated that it shall not be possible for the Provincial Government to fund the elections. The funds required by the Provincial Government will be over and above the amount required by the Commission. That the Provincial Government is expecting shortfall of Rs. 137.0 Billion in the receipts of Punjab on account of Federal Divisible Pool share. There is also expected shortfall of Rs. 111.5 Billion in the provincial own source revenue. That Rs. 140.06 Billion as arrears yet to be received from Federal Government as pending liabilities. The overall debt stock (Foreign and Domestic) of the province amounts to Rs. 1,328 Trillion. The debt servicing amount has been raised to Rs. 128 billion against earlier estimation of Rs. 103 Billion during the CFY due to volatility in Forex rates. The commodity debt of the province is expected to cross Rs. 1 Trillion at the end of wheat procurement drive. Under IMF Program, Punjab also has to maintain cash surplus of Rs. 413/9 Billion. Inspector General of Police Punjab was of the view that without engaging Pak Army and Rangers it would be next to impossible to hold free, fair and transparent General Elections scheduled to be held on 30th April 2023. He has also submitted special confidential reports regarding threat alerts especially to law enforcement agencies, politicians and ulamas.



AND WHEREAS, the process of election starts with the issuance of election program and consists of the various links and stages in that behalf as for example filing of Nomination Papers, their scrutiny, transportation of ballot papers from the printing press to the office of the Returning Officer, from the office of the Returning Officer to the Polling Stations and back to the office of Returning Officer after the close of poll escorted by sufficient number of law enforcement personnel.

AND WHEREAS, presently only one security personnel at average per polling station is available as reported by the IGP, due to massive shortfall in police personnel and non-provision of army personnel at static mode as compared to the General Elections, 2018 in which army personnel were deputed on static mode as per requirement. The Commission is unable to make alternate arrangements to ensure security of the election material, polling staff, voters and the candidates.

AND WHEREAS, Ministry of Finance has shown inability to release funds due to financial crunch and unprecedented economic crisis in the country.

AND WHEREAS, despite all the best efforts by the Commission, the Federal and Provincial Governments and all the executive authorities including law enforcement agencies have not been able to assist the Commission for conduct of free, fair and transparent elections in the Province of Punjab.

AND WHEREAS, it is the duty of the Commission to make all such efforts as are required for arrangements and conduct of free, fair and transparent elections by providing level playing field to all Political Parties and the contestants and to ensure the safety and security of the voters and the polling staff. The Commission is under a direct constitutional obligation to exercise all powers vested in it in a bona fide manner, meeting the highest of standards and norms as mandated under Article 218(3) of the Constitution.

AND WHEREAS, Article 254 of the Constitution provides that when any act or thing is required by the Constitution to be done within a particular period and it is not done within that period, the doing of the act or thing shall not be invalid or otherwise ineffective by reason only that it was not done within that period.




AND WHEREAS, under the circumstances conveyed by the Law Enforcement Agencies, Ministry of Finance, Ministry of Defence, Ministry of Interior and Chief Secretary Punjab, the Commission convened meetings on 20th, 21st and 22nd of March, 2023 in ECP Secretariat to deliberate extensively on the matter of General Elections in Punjab. The Commission after considering the reports, briefing and material brought before it, has arrived at the just conclusion that it is not possible to hold and organize the elections honestly, justly, fairly, in a peaceful manner and in accordance with the Constitution and law.


NOW, THEREFORE, in exercise of powers conferred upon it under Article 218(3) read with Section 58 and Section 8 (c) of the Elections Act, 2017 and all other powers enabling it in that behalf, and deriving wisdom from the “Workers Party through its General Secretary Akhtar Hussain Advocate versus Federation of Pakistan and others” reported as PLD 2012 SC 681, the Commission hereby withdraws the election program issued vide Notification No. F. 2(3)/2023/Cord dated 8th March, 2023 and fresh schedule will be issued in due course of time with poll date on 08th October, 2023.


The office is directed to take follow up action accordingly and also to inform the Hon’ble President of Pakistan.

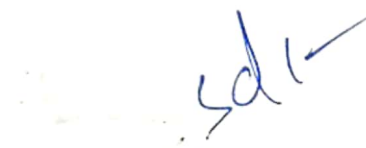

SIKANDAR SULTAN RAJA
Chairman




SHAH MUHAMMAD JATOI
Member


NISAR AHMED DURRANI
Member


BABAR HASSAN BHARWANA
Member


JUSTICE (R) IKRAMULLAH KHAN
Member