

# FROM THE OFFICE OF THE ELECTION COMMISSION – FPCCI

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FPCCI.Election.2024-25/2023 - 12375  
23<sup>rd</sup> November 2023

**Through E-mail, Website, Courier**

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NOMINEE FROM ISLAMABAD CHAMBER OF COMMERCE

----- APPELLANT

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NOMINATED FROM LAHORE CCI

----- RESPONDENT

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NOMINEE FROM PAKISTAN CHEMICAL & DYES MERCHANTS ASSOCIATION

----- RESPONDENT

## **DECISION # 02 & 03 (03 & 03-A – 009)**

### **PASSED BY THE ELECTION COMMISSION OF FPCCI (FPCCI ELECTIONS 2024-2025)**

Consequent upon Appellants written representation / appeal to the Election Commission, received on 18<sup>th</sup> November 2023 in FPCCI Head Office Karachi from Mr. Atif Ikram, nominee of Islamabad Chamber of Commerce & Industry for the year 2024-25, against the decision of the Secretary General of FPCCI as follows:

#### **Decision of the Secretary General:**

“After going through the said arguments and the documents referred/ submitted, my finding are as follows:

1. That the nominee has two years valid membership of trade organization, as provided by the Association.
2. The Nominee has produced Sales Tax Registration Certificate with the evidence of NTN registered in RTO Abbottabad, hence the business address showing Islamabad (Rural).
3. That the Company name of Mr. Atif Ikram showing as “Private Limited”.
4. As per NTN the principal business showing in Abbottabad not in Islamabad.
5. The Membership of the Association of Mr. Atif Ikram is concerned with Islamabad CCI.

*Quoting an order passed by the Regulator TO Vide F.No. 6(107)/2021-TO dated 3<sup>rd</sup> December 2021, regarding the case of Attock WCCI as follows:*

*"The instant appeal is not allowed and the decision of the Election Commission FPCCI is upheld. The Secretary General FPCC is directed to exclude the name of the appellant in the voters list of FPCCI for the year 2022. The matter stands disposed off accordingly."*

In view of the deficiency related with Principal Business in Abbottabad of Mr. Atif Ikram which does not fall in the constituency of Islamabad, therefore the objections raised by the Appellants are accepted, and the name of Mr. Atif Ikram has been excluded provisional list of voters.

#### Hearing Proceedings:

Hearing was conducted on November 20<sup>th</sup>, 2023. During the hearing the learned Counsel for the Appellant submitted that the nominee of the said chamber on the EC & GB has been wrongfully been removed from the provisional voter list. In support of his contentions, he has submitted his tax profile, with NTN No. 1124799-1, a Digital Certificate issued by SECP dated, 12-11-2023, showing the nominee's address in Islamabad, one Bank Certificate of the nominee company, showing a bank account at Islamabad.

Whereas the learned Counsel for the Respondent objected that manufacturing unit of the nominee company is situated at Hariipur and his company is also paying taxes at RTO Abbottabad. He further argued that in terms of Section 3 (2) of the TO Act, the definition of Chamber is given and as such the Appellant do not fall under the said definition. He also relied upon the decision passed by the Hon'ble Islamabad High Court in this regard.

#### Decision of the Election Commission of FPCCI:

1. By way of this appeal, the appellant has prayed for quashing and setting aside the impugned order dated 15.11.2023 passed by the Secretary General of FPCCI whereby the name of the appellant was deleted as voter from the provisional voters' list in the upcoming election scheduled to be held as on dated at FPCCI
2. The facts in nutshell are that the appellants' name was earlier there as voter in the preliminary voters' list of the FPCCI. Subsequently, the objectors i.e. respondent objected against inclusion of the name of the appellant in the provisional voters' list. The said objections was considered by the Secretary General and the name of appellant was removed from the provisional voters' list vide order dated 15.11.2023.
3. Being aggrieved by the aforesaid action, the appellant preferred this appeal.
4. The objectors mainly objected on the ground that the appellant is not a bonafide member of the Islamabad Chamber of Commerce & Industry { ICCI } in real sense and therefore, considering the aforesaid objections, name of the appellant was removed from the provisional voters' list.
5. The learned counsel of the respondent / objector submitted that neither the nominee Mr. Atif Ikram is permanently domiciled in the relevant district nor their tax returns reflects the territorial jurisdiction of the proposed chamber. Even though Mr. Atif Ikram enrolled as a valid member of the ICCI, it is irrefutable to deny that their Industrial Unit is located at Hattar District also the Company registered for purpose of taxation in Regional Tax Office Abbottabad. He also drawn the attention of the election commission towards the introductory part / Preamble of Trade Organization Act, 2013 as per their understanding Trade Organizations are confined to Grow and prosper the trade in their respective territorial jurisdiction, there is no merit in this appeal and the same deserve to be dismissed.
6. Conversely, the learned Counsel of the appellant could not dispute the aforesaid factual submission made by respondent Counsel. However, he submitted that the appellant enrolled as valid member in ICCI and timely deposited requisite membership fees as well. Thus, membership has been confirmed two years before cutoff date.time.  
  
In so far as to concern the question of bonafide membership of the appellant with the ICCI, it is evident from the record that the appellant is running their business activity from his registered office situated at Plot No 191 & 192, 1-9 Industrial Area, Islamabad which meet the membership eligibility Criteria of the ICCI. Relevant documents in connection with this appeal produced before the election commission for Inspection / examination with the request to protect vested rights of the appellant.
7. Arguments heard and record perused.
8. At the very outset, it is to clarify that the purpose of enactment of Trade Organization Act, 2013 is to provide the registration and regulation of trade organization and for the prosperity and growth of the trade, industry and services throughout Pakistan and on the basis of territorial jurisdiction.

9. The Eligibility criteria of membership of " CHAMBER" is derived from Clause (b) of Sub rule 2 of Rule 3 of Trade Organization Rule,2013 the parameters outlined for consideration are;

- (a) Members permanently domiciled in the relevant district.
- (b) A substantial business interest, such as (i) an industrial concern (ii) a corporate business entity.
- (c) Are being assessed for the purposes of income tax and sales tax in the territorial jurisdiction of the proposed chamber.


10. In the instant case the appellant, submitted the registration of company M/S Hafeez Iqbal Oil & Ghee Industries with SECP at Islamabad. Hence, it established that the company is permanently domiciled in Islamabad, further the Documentary Proofs as supported with this appeal are sufficient to conclude the substantial business interest of the Company i.e. Head office is situated at Islamabad where-from all of the important decision taken such as running the operation / activity of sales, distribution, bank accounts and other business activities, furthermore the appellant is a corporate business entity as per requirement of Rule 3(2)(b) of TOR 2013.

11. In view of the above, the present appeal stands disposed off with following directions :-

The impugned decision of the Secretary General is quashed and set aside with the direction that the name of the appellant, shall be included in the provisional list of voters.

This order is passed on Thursday, 23<sup>rd</sup> November 2023.

  
ARSHAD KHURSHID  
Member of the Election Commission  
FPCCI 2024-2025

  
ANJUM RASHEED BAWA  
Member of the Election Commission  
FPCCI 2024-2025

### Dissenting Note

*The undersigned respectfully differs with the above decision of my two brother Election Commissioners. The basic issue to be decided was whether the nominee fulfils the necessary eligibility criteria to be nominated by the Islamabad Chamber of Commerce and Industry.*

*The scheme of trade organizations law is such that a Chamber of Commerce and Industry has been formed and licensed to represent trade, industry and service in each district of Pakistan. Persons conducting business in a particular district are entitled to be members of that district. By this standard, a person not doing business within the territorial jurisdiction of Islamabad Chamber of Commerce and Industry, cannot be enrolled as a member under Rule 11 of the Trade Organizations Rules, 2013 read with section 3(2)(b) of the Trade Organizations Acts 2013.*

*Rule 3(2)(b) of the Trade Organization Rules, 2013 clearly sets out the eligibility criteria of membership of a "Chamber" which include members who are either permanently domiciled in the relevant district or have a substantial business interest such as an industrial concern, a corporate business entity or are being assessed for the purposes of income tax and sales tax in the territorial jurisdiction of the proposed chamber.*

*In the present case, the nominee is not permanently domiciled in Islamabad. Admittedly, the industrial factory of M/s Hafeez Oil and Ghee Mills is located in Abbottabad district. Besides, its FBR tax profile (NTN 0819498) also shows that the Company is assessed for the purposes of Income Tax and Sales Tax in Abbottabad. As regards corporate business, mere registration or head office in a particular city does not signify that its "substantial business interest" is located in that city, particular when the three remaining criteria confirm it being located in Abbottabad district. The main business of the nominee is manufacturing of oil and ghee, for which purpose the primary criteria is that of industrial concern, which is located in Abbottabad. Hence, it does not qualify as a nominee from Islamabad Chamber of Commerce & Industry. The decision of the Secretary General FPCCI is correct and the nominee remains excluded from provisional list.*

  
ASHFAQ AHMED TUNIO  
Member of the Election Commission

Copy to: Directorate General of Trade Organizations, Islamabad  
Secretary General FPCCI

Dr. Ashfaq Ahmad Tunio  
Member  
Election Commission  
FPCCI 2024-2025