

FROM THE OFFICE OF THE ELECTION COMMISSION – FPCCI

Federation House, Tariq Sayeed Complex,
Main Clifton, Block 5, Abdullah Shah Ghazi Road, Karachi
T. 021-35873691-94, E. info@fpcci.org.pk, Website. www.fpcci.org.pk

FPCCI.Election.2024-25/2023 - 19194
18th November 2023

Through E-mail, Website

URGENT & IMPORTANT

MR. ATIF IKRAM
Managing Director
Hafeez Iqbal Oil & Ghee Industries (Pvt) Ltd.
Plot No. 191 & 192, I-9, Industrial Area,
Islamabad
T: 051-4430237-38, 4433040
M: 03008549797
R: 051-2255040
E: atif@mujahidgroup.com
NOMINEE FROM ISLAMABAD CHAMBER OF COMMERCE

----- APPELLANT

MALIK MUHAMMAD KHALID
Proprietor
M/s. Gojjar Electrical Company
36-Madina Electric Market, Shahalam Gate,
Lahore
T: 042-37667655, 37662036, 37930811
M: 03334238853
R: 042-35834829
E: gojjars@gmail.com
NOMINATED FROM LAHORE CCI

----- RESPONDENT

MR. KAMRAN RIAZ
Proprietor
M/s. Danish Traders
MR-5/126, Zakaria Lane, Jodia Bazar,
Karachi
T: 021-32442242, 32440634
M: 03008251292
R: 021-35248254
E: riazncompany@yahoo.com
NOMINEE FROM PAKISTAN CHEMICAL & DYES MERCHANTS ASSOCIATION

----- RESPONDENT

HEARING # 2 (003 – 009)

HEARING CALLED BY THE ELECTION COMMISSION OF FPCCI (FPCCI ELECTIONS 2024-2025)

Please refer to the Appeal dated nil received on 18th November 2023 in FPCCI Head Office Karachi from Mr. Mr. Atif Ikram, representing Islamabad Chamber of Commerce & Industry, to the Election Commission of FPCCI, against the decision of the Secretary General of FPCCI.

The Election Commission of FPCCI is pleased to grant the appellant(s) and the respondent(s) a **hearing opportunity in person** or through their **authorized representative** (with letter of authorization from the Appellant(s) / Respondent(s)) before the Election Commission of FPCCI alongwith all original / relevant documents, as per following schedule:

Day & Date: **Monday, 20th November 2023**
Time: **Between 10:00 a.m. to 11:00 a.m.**
Venue: **Basement 2, FPCCI Head Office Karachi**

FPCCI has arranged special Zoom link facility for the outstation Appellant(s) / Respondent(s). Those who are unable to attend physically may avail the hearing via Zoom Link, by the following link:

Zoom ID: 764 276 3799
Password: fpcci1214
Link: <https://us06web.zoom.us/j/7642763799>

Punctuality of time is requested. Also you are requested to be precise and brief.

In case of non- appearance, the case shall be decided ex-parte.



ARSHAD KHURSHID
Member of the Election Commission



ASHFAQ AHMED TUNIO
Member of the Election Commission



ANJUM RASHEED BAWA
Member of the Election Commission

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

**BEFORE THE ELECTION COMMISSION OF THE FEDERATION OF PAKISTAN
CHAMBER OF COMMERCE AND INDUSTRY.**

Atif Ikram, Managing Director, Hafeez Iqbal Oil and Ghee Industries 9PVT) Ltd, Plot No. 191 & 192, 1-9, Industrial Area, Islamabad as Representative of Islamabad Chamber of Commerce and Industries for EC and GB of FPCCI.

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... APPELLANT



Versus



1. Malik Muhammad Khalid Proprietor, M/s. Gujjar Electrical Company 36-Madina Electric Market, Shahalam Gate, Lahore nominee of Lahore Chamber of Commerce and Industry
2. Federation of Pakistan Chamber of Commerce and Industry, Federation House, Main Clifton, Block-5, Abdullah Shah Ghazi, Road, Karachi, Through, its Secretary General.

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... RESPONDENTS

**APPEAL UNDER RULE 18(6) OF THE TRADE ORGANIZATIONS RULES, 2013
AGAINST THE ORDER PASSED BY THE SECRETARY GENERAL OF THE FPCCI.**

Respectfully Sheweth:

- 1). That through the instant appeal the appellant respectfully seek to impugn the Order dated 05-11-2023 ("the **Impugned Order**"). Through the impugned order the Secretary General of the FPCCI, accepted the objection/appeal filed by the Respondent No.1 appellant.
- 2). That the Respondent No.1 filed the objection before the Secretary General of the FPCCI against the Appellant alleging that the nomination the Appellant is sent by the Islamabad Chamber of Commerce ("ICCI") in violation of the Section 3 of the Trade Organizations Act, 2013 ("2013 Act") read with Rule 11 and Rule 15 of the Trade Organizations Rules, 2013, ("2013 Rules"). The Tax Profile of the business concern namely HafeezOil and Ghee Mills and

factory are located and functioning at Abbottabad therefore is not eligible to become a member of ICCI because the ICCI represents the Trade, Industry and Services within the Islamabad District. The Respondent No. 1 relied on the order dated 03-12-2021 passed by the learned DGTO in Hina Mansab vs Election Commission of the FPCCI.

- 3). That the Secretary General of FPCCI through the impugned order failed to appreciate the vital question of law and facts that were urged before the Secretary General Respondent and is liable to be set aside on the following amongst other grounds:-

GROUNDS

- a). That the impugned order is against the law, facts and circumstances of the case available on record.
- b). That the Secretary General while passing the impugned order did not apply its judicial mind and rendered the order contrary to the law hence the impugned order is not sustainable in the eyes of law.
- c). That the impugned order was passed without application of mind and reasoning while deciding the objection, thus the same is non speaking order and cannot be sustained in the eyes of law.

That the Appellant is the nominee of the ICCI as a director of Hafeez Iqbal Oil and Ghee Mills Industries (Pvt) Limited having its registered office at Islamabad.

The copies of all the above referred documents are also attached along with the instant appeal.

Rule 11 of the 2013 Rules provides that any business concern shall be eligible for grant or renewal of membership of any trade organization if such business concern meets the following conditions, namely:-

- (b) the prospective member's business fits within the defined business scope or area of jurisdiction of the trade organization as provided in the said trade organization's approved memorandum and articles of association and under the licence granted by the Federal Government;

Article 5 of the Memorandum and Articles of Association provide the criteria of being a member of the ICCI which is reproduced here in below:-

5. **Membership of the Chamber.**

Any business concern shall be eligible for grant, renewal/ re-admission of membership if such business concern meets the following condition namely ;-

A. Membership Eligibility Conditions;-

- (a) the prospective member is a sole proprietorship or a partnership firm or an association of persons or a company holding national tax number and sales tax registration, if applicable, in name of the business concern;*
- (b) the prospective member is either permanently domiciled in the Islamabad Capital Territory or have a substantial business interest such as an industrial concern, a corporate business entity or is being assessed for the purposes of income tax and sales tax in the territorial jurisdiction of the Chamber*
- (c) the application for grant of membership has been proposed and seconded by existing members of the Chamber and*
- (d) the prospective member has no criminal conviction; and*

That during the course of the hearing before the Secretary General the Appellant's counsel provided the registration certificate along with the Form-A and the certificate of incorporation issued by SECP in the year 1989, Form XXI of 1994, Form-A, dated 25-10-2023, Digital Certified Company Address as on 12-11-2023 issued by the SECP, MCB account statement for the month of October 2023 of the Hafeez Iqbal Oil and Ghee Industries(Private) Limited showing that the Appellant's business as being a corporate business entity having its registered office at Islamabad is a valid member of the ICCI, but the Secretary General deliberately has not referred the said document in its order.

- d). That the impugned order was passed out side of the scope and limitations of the law and is not sustainable.
- e). That the Secretary General FPCCI passed the impugned order in sheer violation of the Trade Organizations Rules, 2013 and the Trade Organization Act, 2013, which provides the complete mechanism for the inclusion/ exclusion /deletion of any entry in the Provisional/ Final voter list hence the impugned order is not sustainable in the eyes of law.
- f). That the impugned order was passed in violation of Fundamental Rights and Principles of natural justice. That Rule of Justice demands that before any adverse order, penalty or liability was passed or imposed upon a party, it should be afforded full opportunity to meet the case and rebut the evidence used against it hence the impugned order is not sustainable in the eyes of law.

- g). That the learned Secretary General while passing the impugned order overlooked the factum that the Trade Organization Act, 2013 which stipulates the procedure in case of contravention of any provision of the Act or any rule or order or instruction, the impugned order was passed by the learned Election Commission arbitrarily, illegally and tantamount to abuse of law, authority as well as the infringement of constitutional and fundamental rights of the appellant ensured under the constitution of Pakistan, hence the impugned order is void, unfair, unjust, unwarranted, arbitrary, malafide, illegal and ineffective qua the rights of the petitioner.
- h). That the impugned order was passed without application of his independent mind and without even realizing that the impugned order not only illegal but also against the Article 17 of the Constitution of Pakistan, 1973, hence the respondent failed to discharge his duties as per exigencies of his statutory responsibilities and acted in excess of their statutory responsibilities and acted in violation of his lawful authority and in violation of law and constitutional mandate. Therefore, the conduct of the respondent no.1 & 2 is violative of the dictates of the Honble Superior Court and needs to be judicially reviewed by this Learned Authority.
- i). That the impugned order is based on conjectures and surmises which is not sustainable in the eyes of law.
- j). That while deciding the case and passing the impugned order, the Secretary General did not properly appreciate the documents/evidence on record hence the impugned order is the result of misreading and non-reading of the evidence.

Prayer

In view of the foregoing, it is therefore, most respectfully prayed that while accepting the present appeal the impugned order may kindly be set aside in the interest of justice and the name of the Appellant may kindly be included in the Final Voter List of the FPCCI.

Any other relief that this Authority Court deem fit and proper may also be granted to the Appellant Company.

APPELLANT

Through



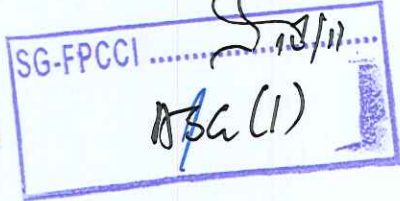
MALIK GHULAM SABIR
Advocate High Court

**BEFORE THE ELECTION COMMISSION OF THE FEDERATION OF PAKISTAN
CHAMBER OF COMMERCE AND INDUSTRY.**

Atif Ikram, Managing Director, Hafeez Iqbal Oil and Ghee Industries 9PVT) Ltd, Plot No. 191 & 192, 1-9, Industrial Area, Islamabad as Representative of Islamabad Chamber of Commerce and Industries for EC and GB of FPCCI.

.... APPELLANT

S.C.
18/11



Versus



1. Kamran Riaz Proprietor, M/s. Danish Traders, MR-5/126, Zakaria Lane, Jodia Bazar, Karachi, Shahalam Gate, Lahore nominee of Pakistan Chemicals & Dyes Merchants Association, Karachi.
2. Federation of Pakistan Chamber of Commerce and Industry, Federation House, Main Clifton, Block-5, Abdullah Shah Ghazi, Road, Karachi, Through, its Secretary General.

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Respectfully Sheweth:

- 1). That through the instant appeal the appellant respectfully seek to impugn the Order dated 05-11-2023 ("the **Impugned Order**"). Through the impugned order the Secretary General of the FPCCI, accepted the objection/appeal filed by the Respondent No.1 appellant.
- 2). That the Respondent No.1 filed the objection before the Secretary General of the FPCCI against the Appellant alleging that the nomination the Appellant is sent by the Islamabad Chamber of Commerce ("ICCI") in violation of the Section 3 of the Trade Organizations Act, 2013 ("2013 Act") read with Rule 11 and Rule 15 of the Trade Organizations Rules, 2013, ("2013 Rules"). The Tax Profile of the business concern namely Hafeez Oil and Ghee Mills and factory are located and functioning at Abbottabad therefore is not eligible to become a member of ICCI because the ICCI represents the Trade. Industry and

Services within the Islamabad District. The Respondent No. 1 relied on the order dated 03-12-2021 passed by the learned DGTO in Hina Mansab vs Election Commission of the FPCCI.

- 3). That the Secretary General of FPCCI through the impugned order failed to appreciate the vital question of law and facts that were urged before the Secretary General Respondent and is liable to be set aside on the following amongst other grounds:-

GROUND S

- a). That the impugned order is against the law, facts and circumstances of the case available on record.
- b). That the Secretary General while passing the impugned order did not apply its judicial mind and rendered the order contrary to the law hence the impugned order is not sustainable in the eyes of law.
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That the Appellant is the nominee of the ICCI as a director of Hafeez Iqbal Oil and Ghee Mills Industries (Pvt) Limited having its registered office at Islamabad.

The copies of all the above referred documents are also attached along with the instant appeal.

Rule 11 of the 2013 Rules provides that any business concern shall be eligible for grant or renewal of membership of any trade organization if such business concern meets the following conditions, namely:-

- (b) the prospective member's business fits within the defined business scope or area of jurisdiction of the trade organization as provided in the said trade organization's approved memorandum and articles of association and under the licence granted by the Federal Government;

Article 5 of the Memorandum and Articles of Association provide the criteria of being a member of the ICCI which is reproduced here in below;-

5. Membership of the Chamber.

Any business concern shall be eligible for grant, renewal/ re-admission of membership if such business concern meets the following condition namely ;-

A. Membership Eligibility Conditions;-

- (a) the prospective member is a sole proprietorship or a partnership firm or an association of persons or a company holding national tax number and sales tax registration, if applicable, in name of the business concern;*
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- (c) the application for grant of membership has been proposed and seconded by existing members of the Chamber and*
- (d) the prospective member has no criminal conviction; and*

That during the course of the hearing before the Secretary General the Appellant's counsel provided the registration certificate along with the Form-A and the certificate of incorporation issued by SECP in the year 1989, Form XXI of 1994, Form-A, dated 25-10-2023, Digital Certified Company Address as on 12-11-2023 issued by the SECP, MCB account statement for the month of October 2023 of the Hafeez Iqbal Oil and Ghee Industries(Private) Limited showing that the Appellant's business as being a corporate business entity having its registered office at Islamabad is a valid member of the ICCI, but the Secretary General deliberately has not referred the said document in its order.

- d). That the impugned order was passed out side of the scope and limitations of the law and is not sustainable.
- e). That the Secretary General FPCCI passed the impugned order in sheer violation of the Trade Organizations Rules, 2013 and the Trade Organization Act, 2013, which provides the complete mechanism for the inclusion/exclusion /deletion of any entry in the Provisional/ Final voter list hence the impugned order is not sustainable in the eyes of law.
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- g). That the learned Secretary General while passing the impugned order overlooked the factum that the Trade Organization Act,2013 which stipulates the procedure in case of contravention of any provision of the Act or any rule or order or instruction, the impugned order was passed by the learned Election Commission arbitrarily, illegally and tantamount to abuse of law, authority as well as the infringement of constitutional and fundamental rights of the

appellant ensured under the constitution of Pakistan, hence the impugned order is void, unfair, unjust, unwarranted, arbitrary, malafide, illegal and ineffective qua the rights of the petitioner.

- h). That the impugned order was passed without application of his independent mind and without even realizing that the impugned order not only illegal but also against the Article 17 of the Constitution of Pakistan, 1973, hence the respondent failed to discharge his duties as per exigencies of his statutory responsibilities and acted in excess of their statutory responsibilities and acted in violation of his lawful authority and in violation of law and constitutional mandate. Therefore, the conduct of the respondent no.1 & 2 is violative of the dictates of the Honble Superior Court and needs to be judicially reviewed by this Learned Authority.
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In view of the foregoing, it is therefore, most respectfully prayed that while accepting the present appeal the impugned order may kindly be set aside in the interest of justice and the name of the Appellant may kindly be included in the Final Voter List of the FPCCI.

Any other relief that this Authority Court deem fit and proper may also be granted to the Appellant Company.

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Through



MALIK GHULAM SABIR
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In view of the foregoing, it is therefore, most respectfully prayed that while accepting the present appeal the impugned order may kindly be set aside in the interest of justice and the name of the Appellant may kindly be included in the Final Voter List of the FPCCI.

Any other relief that this Authority Court deem fit and proper may also be granted to the Appellant Company.

APPELLANT

Through

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