

FROM THE OFFICE OF THE ELECTION COMMISSION – FPCCI

Federation House, Tariq Sayeed Complex,
Main Clifton, Block 5, Abdullah Shah Ghazi Road, Karachi
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FPCCI.Election.2024-25/2023 -12213
18th November 2023

Through E-mail, Website

URGENT & IMPORTANT

MR. WAQAR ZAFAR BAKHTAWARI
Managing Director
D-Watson Pharmacy & Cash & Carry
Lal Hussain Plaza, opp. MCB Bank, Near Sabzi
Mandi, Talagang Road,
Chakwal
T: 0543-668167 M: 03335557771
E: waqarbakhtawari@hotmail.com
NOMINEE FROM CHAKWAL CCI

----- 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

HEARING # 22 (046 – 158)

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. Waqar Zafar Bakhtawari, representing Chakwal CCI, 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 1:00 p.m. to 2:00 p.m.**
Venue: **Basement 2, FPCCI Head Office Karachi**

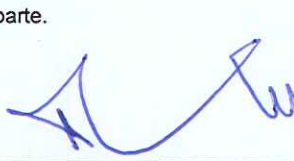
FPCCI has arranged special Zoom link facility for the outstation Appellant(s) / Respondent(s). Those who are unable to attend physically may avail the hearing via Zoom Link, by the following link:


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.

Waqar Zafar Bakhtawari Managing Director D-Watson Pharmacy & Cash & Carry,
Lal Hussain Plaza, opp, MCB Bank Near Sabzi Mandi, TALAGANG Road, Chakwal.

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... APPELLANT



Versus



1. Malik Muhammad Khalid, Proprietor M/s Gujjar Electrical Company, 36-Madina Electric Market, Shahalam Gate, Lahore.
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 Chakwal Chamber of Commerce ("CCCI") in violation of the Section 3 (2) (b) of the Trade Organizations Act, 2013 ("2013 Act") read with Rule 3(2)(b), 11 and Rule 15 of the Trade Organizations Rules, 2013, ("2013

Rules"). The appellant has no business interest with in the district Chakwal as D-Watson Pharmacy, his business concern is D-Watson Optics.

- 3). That the counsel for the Appellant appeared and during the hearing and submitted the Partnership deed, Lease deed, Income Tax return, NTN profile, showing that the Appellant is a partner in D-Watson Pharmacy which has its branch at Chakwal.
- 4). 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 CCCI as Managing Partner of D-Watson Pharmacy Cash & Cary. That during the course of the hearing before the Secretary General the Appellant's counsel provided the Partnership deed, Lease deed, Income Tax return, NTN profile, showing that the Appellant is a partner in D-Watson Pharmacy which has its branch at Chakwal but the Secretary General deliberately has not referred the said documents in its order.

The copies of the Partnership deed, Lease deed, Income Tax return, NTN profile, showing that the Appellant is a partner in D-Watson Pharmacy which has its branch at Chakwal attached along with the instant Appeal.

- 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

APPELLANT



MALIK GHULAM SABIR
Advocate High Court

Election Commission,
Federation of Pakistan
Chambers of Commerce & Industry

Cc to:

The Regulator/ Director General
Trade Organizations Islamabad

REPRESENTATION UNDER RULE 18(6) OF THE TRADE ORGANIZATIONS RULES 2013 AGAINST THE IMPUGNED ORDER DATED 15-11-2013 PASSED BY THE SECRETARY-GENERAL FPCCI THEREBY REMOVING THE NAME OF THE UNDERSIGNED FROM THE PROVISIONAL LIST OF VOTERS FOR THE ELECTION OF FPCCI 2024-2025

The impugned order suffers from grave illegalities and is liable to be set aside, inter alia, on the following grounds;

1. The issuance of the impugned order by the Secretary-General relies on the discrepancy between the Partnership Firm's name, identified as "D Watson Chemists," and the name "D-Watson Pharmacy and Cash and Carry" stated in the income tax return. Contrarily, the undersigned, along with other partners, duly amended the Partnership Firm through an Addendum to the Partnership Deed dated May 28, 2014. This legally executed Addendum, secured on Stamp Papers, is substantiated by Clause No. 1, wherein the partners consented to alter the firm's name. The clause is reproduced as follows:

"That the partners, by mutual agreement, have resolved to modify the name and style of the partnership businesses, allowing for changes and the establishment of branches and sub-offices across Pakistan. The modified businesses' names and styles are detailed as follows:

- a. "D-WATSON PHARMACY & SUPERSTORE" at Plot No. 48,49, Chaklala, Scheme-III, Rawalpindi.
 - b. "D-WATSON PHARMACY & CASH & CARRY" at Basement & Ground Floor, Lal Hussain Plaza, Near Sabzi Mandi, Talagang Road, Chakwal."
2. The tax return for the fiscal year 2021-2022 submitted by the undersigned and partners reflects the same change in the business name. Copies of the Income Tax Return and the Taxpayer Profile Enquiry, featuring both aforementioned names, are provided herewith.

3. Concurrently, these alterations were also updated in the Chamber's records, resulting in the obtaining of a renewed Membership Certificate under the name "D-WATSON PHARMACY & CASH & CARRY." The attached Membership Certificate attests to this modification.
4. The Secretary-General's decision lacked thorough examination of the facts, hastily concluding on superficial grounds without adequately considering, acknowledging, or requesting all pertinent facts, records, and evidence in the matter.
5. Moreover, in accordance with Section 10 (4) of the Trade Organizations Act 2013, read alongside Rule 11 (1), a member's name must align with a national tax number "in the name of the business concern." Both the Membership Card and the Income Tax Number correspondingly display the same name. Even the Partnership Deed, unquestionably inclusive of the Addendum, concurs with the same name. Consequently:
 - i. The Secretary-General has challenged the authority of the FBR to sanction a business name for an Association of Persons and evaluate its validity. This constitutes a transgression of powers and a blatant violation of the aforementioned laws. Once a business concern's name is registered under the National Tax Number, the Secretary-General is obligated to acknowledge it and cannot capriciously disregard it.
 - ii. The Secretary-General has wholly disregarded the undersigned's membership certificate, which aligns with the business concern's name stated on the NTN, i.e., "D-Watson Pharmacy & Cash & Carry." Notably, the impugned order fails to acknowledge or reference this certificate.

In view of the above, it is most respectfully requested that the impugned order of the Secretary-General may be set aside and the nomination of the undersigned may kindly be accepted.



Waqar Zafar Bakhtawari
President
Chakwal Chamber of Commerce and Industry
Through Counsel