

FROM THE OFFICE OF THE ELECTION COMMISSION – FPCCI

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FPCCI.Election.2024-25/2023-12217
18th November 2023

Through E-mail, Website

URGENT & IMPORTANT

MR. JAMAL KHAN
Director, M/s. Wali Hajj services (Pvt) Ltd
Sardar Wali Plaza Old Turck Adda Near Pearl
Institute Satellite Town, Quetta
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NOMINEE FROM HAJJ ORGANIZERS ASSOCIATION OF PAKISTAN

----- APPELLANT

MR. GUL FARAZ KHAN
Proprietor, M/s S.S. Chemicals
C-21, Shereen Jinnah Colony Block-1, Clifton Karachi
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NOMINEE FROM PAKISTAN OIL TANKERS OWNERS ASSOCIATION

----- RESPONDENT

HEARING # 25 (049 – 162)

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. Jamal Khan, representing Hajj Organizers Association of Pakistan, 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

49 (162)



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

JAMAL KHAN DIRECTOR M/s Wali Hajj Services (Pv) Ltd Sardar Wali Plaza Old
Truck Adda Near Pearl Institute Satellite Town, Quetta.

B.C
Q.18/11
SG-FPCCI 18/11
ASG (1) VERSUS ... Appellant

1. **MR. GUL FARAZ KHAN**, C-21, Shereen Jinnah Colony, Block-1, Clifton, 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.

... Respondents

**APPEAL UNDER RULE 18(6) OF THE TRADE ORGANIZATIONS RULES, 2013
AGAINST THE ORDER DATED 15.11.2023 PASSED BY THE SECRETARY
GENERAL OF THE FPCCI.**

Respectfully Submitted:

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.
- 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 Hajj Organizations of Pakistan (“HOAP”) 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 Appellant cannot fall in the Associate Class as his business is well over the minimum threshold

for associate class as provided by the rules, therefore, he fits within the corporate class.

- 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:-

G R O U N D 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.
- 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.

There is no requirement in the law or FPCCI's Memorandum and Articles of Association that an association nominate has to nominate at least one representative from the Associate Class. Therefore, Mr. Jamal Khan's nomination may kindly be treated as being for the Corporate Class. Reference in this regard was made to Rule 20(2)(d) of the Trade Organization Rules, 2013 read with Article 9(d) of the FPCCI's Memorandum and Articles of Association.

- d). Rule 20(2)(d) of the 2013 Rules read with Article 9(d) of the FPCCI's Memorandum and Articles of Association, require an association such as REAP to nominate at least one member for the Corporate Class. There is no requirement in the said Rule or the FPCCI's Memorandum and Articles of Association that an association has to nominate at least one member for the Associate Class. The Impugned Order has, therefore, erred by not accepting the Appellants' request that the Appellant No. 2 be treated as REAP's nominee for the Corporate Class.
- e) Without prejudice to the forgoing, the Impugned Order has ignored the fact that a number of entities who are body corporates have been nominated for the

Associate Class without any objections having been raised against them as a result of which they continue to remain on the provisional list of nominees.

- f). 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 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 the instant Appeal may kindly be accepted and:

- (a) The Impugned Order be set aside; and
- (b) Jamal Khan nomination be accepted as HOAP's nomination for Corporate Class for the FPCCI's election for the year 2024-2025; and
- (c) Jamal Khan's name be included in the Final Voter List for the FPCCI's election for the year 2024-2025.

Any other Order deemed to be just and appropriate may also kindly be passed.

APPELLANT



Through

MALIK GHULAM SABIR
Advocate High Court