

FROM THE OFFICE OF THE ELECTION COMMISSION – FPCCI

Federation House, Tariq Sayeed Complex,
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FPCCI.Election.2024-25/2023-12238
18th November 2023

Through E-mail, Website

URGENT & IMPORTANT

MR. MUHAMMAD ALI FAROOQ
Director M/s. Pakistan Airconditioning and Refrigeration
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NOMINEE FROM PAKISTAN ELECTRONICS MANF ASSOCIATION

----- APPELLANT

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NOMINEES FROM LAND ROUTE CUSOTMS AGENTS ASSOCIATION, QUETTA

----- RESPONDENTS

HEARING # 47 (087 – 238)

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. Muhammad Ali Farooq, representing Pakistan Electronics Manf Association, 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 4:00 p.m. to 5:00 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

87(238)

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

Muhammad Ali Farooq, Director M/s Pakistan Air conditioning and Refrigeration Corporation (Pvt) Ltd, 11- modern Co—Operative Housing Society, Main Tipu Sultan Road, Karachi.

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... APPELLANT

E.C.
18/11/23

SG-FPCCI
ASG (1)

Versus



1. Mr. Haji Janan Achakzai (Corporate) as EC & GB as Proprietor M/s Janan and Company nominee of All Pakistan Customs Agents Association.
2. Mr. Syed Ghulam Sarwar Shah (Associate) as GB as Proprietor M/s Auto Aids, nominee of All Pakistan Customs Agents Association.
3. 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, rejected the objection/appeal filed by the Appellant.
- 2). That the Appellant filed the objection before the Secretary General of the FPCCI against All Pakistan Land Route Customs Agents Association (“APLRCAA”), That for purposes of enrolling or renewal of membership of

the FPCCI it is condition precedent that the Trade Organization have valid licence under section 3 of the Trade Organizations Act, 2013.

That the licence issued to APLRCAA has been cancelled/expired therefore according to Article 3 of the Memorandum and Articles of Association of the FPCCI read with Article Section 10 of the Trade Organizations Act, 2013 the APLRCAA is not eligible to be enrolled/admitted as member of the FPCCI, consequently is not eligible to participate in the elections of the FPCCI for the year 2023. It is further submitted that the conduct of the Secretary General and the other staff of the FPPCI be inquired regarding issuance of the renewal of the APLRCAA with FPCCI in violation of the Trade Organizations Rules, 2013 as well as the Memorandum and Articles of Association. The further objection against the Respondent No.1 namely Mr. Haji Janan Achakzai (Corporate) as EC & GB as Proprietor M/s Janan and Company. The NTN profile of the above said nominee reflects that it does not have any business of land route custom agent and the business concern is also not a body corporate. That as per the Section 3(2) d of the Trade Organizations 2013 is organized to represent the only the land route custom agent therefore the above said business concern is not a valid member as the above referred business concern does qualify the criteria of the APLRCAA as provided in the Articles and Memorandum of Association read with Rules 2(c)(g) and 3(2) (a) of the Trade Organizations Rules 2013.

That the APLRCAA also nominated Mr. Syed Ghulam Sarwar Shah (Associate) as GB as Proprietor M/s Auto Aids. The NTN profile of the above said nominee reflects that it does not have any business of land route custom agent, That as per the Section 3(2) d of the Trade Organizations 2013 is organized to represent the importer of scrap therefore the above said business concern is not a valid member as the above referred business concern does qualify the criteria of the SIA as provided in the Articles and Memorandum of Association read with Rules 2(c)(g) and 3(2) (a) of the Trade Organizations Rules 2013,

That APLRCAA being a cancelled Trade Organization could not forward the nomination of any business concern to the FPCCI, Consequently the above said nominee could not be nominated as representative of the APLRCAA hence the said nominee is not eligible to participate in the FPCCI's election and his nomination is liable to be rejected. The respondents nominations are in violation of the Section 10 (2) (a) of the Trade Organizations Act, 2013 ("2013 Act") read with Rule 2(g), 11 and Rule 15 of the Trade Organizations Rules, 2013, ("2013 Rules").

- 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.
- 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.

The Secretary General also not appreciated the order passed by the Honourable Supreme Court of Pakistan in CMA's No. 32-Q of 2022 and CMA's No. 37 to 45-Q in Civil Petitions No. Nil of 2022 dated 07-11-2023 through which it was held that the licence of the APLRCAA has been expired and the APLRCAA has no valid licence therefore the nominees of APLRCAA cannot participate in the FPCCI election as being expired Trade organization.

- 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 Secretary General 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 while accepting the present appeal the impugned order may kindly be set aside in the interest of justice and the name of the Respondent No.1 and 2 may kindly be excluded/deleted 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