

FROM THE OFFICE OF THE ELECTION COMMISSION – FPCCI

Federation House, Tariq Sayeed Complex,
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FPCCI.Election.2024-25/2023-12199
18th November 2023

Through E-mail, Website

URGENT & IMPORTANT

MR. NADEEM A. KUSHTIWALA
Partner M/s. JB Saeed & Company
Fazal Chambers Kutchi Gali # 03, Marriot Road
Karachi, Mailing Address: JB. Saeed Studio,
10-C Main Khayaban-e-Bukari, Bukari
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NOMINEES FROM PAKISTAN HARDWARE MERCHANTS ASSOCIATION

----- APPELLANT

SH. OMER SARFRAZ
C.E.O M/s. Eagle International (Pvt.) Ltd.
46-A, Mall Godaam, Near Model Steel, Badami Bagh, Lahore
T: 042-37286866
M: 03008516666
E: gamarsteel1@gmail.com

NOMINEE FROM PAKISTAN STEEL LINEPIPE INDUSTRY ASSOCIATION

----- RESPONDENT

HEARING # 6 (015 – 046)

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. Nadeem A. Kushtiwala, representing Pakistan Hardware Merchants 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 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.**

Nadeem A. Kushtiwala Partner M/s JB Saeed and Company, Fazal Chamber Kutchi Gali # 3, Marriot Road Karachi nominee as Pakistan Hardware Merchants Association.

E.C.
L/10/11

SG-FPCCI 18/11
ASU(1)

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Versus

... APPELLANT



1. Omer Sarfraz C.E.O M/s Eagle International (Pvt) Ltd. 46-A, Mall Godaam, Near Model Steel, Badami Bagh, Lahore. nominee of Pakistan Steel Linepipe Industry Association.
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's that the Hardware Merchants Association ("PHMA") Association is non-compliant and defunct Trade Organizations and have not complied the order in original no. 41/2021 therefore, the nominees OF PHMA are not eligible to participate in the FPCCI's Elections.
- 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.

That the Appellant is the nominee of the PHMA and during the course of hearing submitted the letters dated July 01, 2021 and April 12, 2022, addressed to the DGTO for compliance along with the renewed license issued to the PHMA on 20 April, 2022 showing that the liecence was renewed after compliance of all the order of the DGTO and now the PHMA is a valid Trade Organization, but the Secretary General deliberately has not referred the said documents in its order and passed the impugned order unlawfully.

- 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.

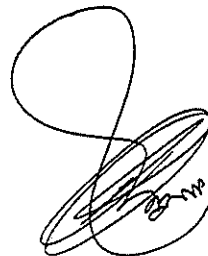
- h). That the impugned order was passed without application of his independent mind and without even realizing that the impugned order not only illegal but also against the Article 17 of the Constitution of Pakistan, 1973, hence the respondent failed to discharge his duties as per exigencies of his 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 names of the Appellants along with the other nominee 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