

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.2024-25/2023-12260
18th November 2023

URGENT & IMPORTANT

Through E-mail, Website

MR. SHAIKH MOHAMMAD IMRAN
Director, M/s. Din Industries Pvt Ltd.
01 KM, Defence Road, Off Riawind Road,
Lahore
T: 042-3596622-8
M: 03334376100
R: 042-32356550
E: smimran@dingroup.com
W: www.dingroup.com

NOMINEE ON GB (ASSOCIATE) FROM ALL PAKISTAN TEXTILE MILLS ASSOCIATION

MR. SHAHID SATTAR
SECRETARY GENERAL
ALL PAKISTAN TEXTILE MILLS ASSOCIATION
5TH FLOOR, EVACUEE TRUST COMPLEX
F-5/1
ISLAMABAD
T. 051-8460026-7/2201984/2827145
F. 051-2827614
E. aptmaisb@aptma.org.pk

----- APPELLANTS

MR. GUL FARAZ KHAN
Proprietor, M/s S.S. Chemicals
C-21, Shereen Jinnah Colony Block-1, Clifton
Karachi
T: 021-3588854
M: 03452625505
E: niazichairman01@gmail.com
NOMINEE FROM PAKISTAN OIL TANKERS OWNERS ASSOCIATION

----- RESPONDENT

HEARING # 67 (017 – 051)

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 Sheikh Muhammad Imran, Nominee and Mr. Shahid Sattar, Secretary General of All Pakistan Textile Mills 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:

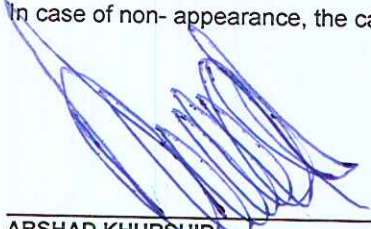
Day & Date: **Monday, 20th November 2023**
Time: **Between 7:00 p.m. to 8:00 p.m.**
Venue: **Basement 2, FPCCI Head Office Karachi**

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

17(51)

12

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

All Pakistan Textile Mills Association (APTMA) and Another

Versus

Mr. Gul Faraz Khan and Another



**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.**

INDEX

S. NO.	DESCRIPTION	ANNEX	DATE	PAGE
1.	Appeal	--	17.11.2023	1 - 6
2.	Copy of the Impugned Order	A	15.11.2023	7 - 8
3	Copy of the Respondent No. 1's Objection	B	10.11.2023	9 - 10
4.	Copy of the Nomination Papers filed by APTMA	C	26.10.2023	11 - 39
5.	Copy of FPCCI's Cover Letter	D	04.11.2023	40 - 41
6.	Copy of the relevant excerpts of the Provisional List	E	--	42
7.	Copy of the payment receipt date for Din Industries Limited's renewal fee	F	--	43
8.	Copy of the Memorandum and Articles of Association of Din Industries Limited	G	--	44 - 67
9.	Copy of the Clarification sent by the Secretary General, APTMA to the Secretary General, FPCCI	H	14.11.2023	68 - 69

APPELLANTS

Through

MALIK GHULAM SABIR
Advocate High Court

ASAD LADHA
Advocate High Court

Plz call Hearing
[Handwritten signature]

SG-FPCCI 18/11/23
[Handwritten signature]

EC
18/11/23

/

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

1. ALL PAKISTAN TEXTILE MILLS ASSOCIATION (APTMA), through its Secretary General, Mr. Shahid Sattar, having its principal office at 5th Floor, Evacuee Trust Complex, Agha Khan Road, F-5/1, Islamabad, Pakistan.
2. SHAIKH MUHAMMAD IMRAN, son of Shaikh Muhammad Muneer, resident of 01 KM, Defence Road, Off Raiwand Road, Lahore, holding CNIC No. 42201-0403383-3, Director, Din Industries Limited.

... *Appellant*

VERSUS

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:

1. Through the instant appeal the Appellants respectfully seek to challenge the Order No. 017 (51) dated 15 November 2023 (the "Impugned Order") passed by the learned Secretary General, Federation of Pakistan Chamber of Commerce and Industry ("Secretary General, FPCCI"). Through the Impugned Order, the Secretary General of the FPCCI, accepted the objection/complaint filed by the Respondent No.1 (the "Respondent No. 1's Objection") and rejected the name of Shaikh Muhammad Imran (Appellant No. 2) as a valid member of the General Body (Associate Class) of the FPCCI election for the year 2024-25, nominated by the All Pakistan Textile Mills Association ("APTMA").

[Copies of the Impugned order dated 15.11.2023 and the Respondent No. 1's Objection are placed herewith and marked as Annexure-A and Annexure-B respectively]

2. APTMA filed its nominations for the General Body and the Executive Committee of the FPCCI for the year 2024-2025 through a cover letter dated 26.10.2023.

[A copy of the nomination papers filed by APTMA are placed herewith and marked as Annexure-C]

3. Through a letter dated 04.11.2023, the Secretary General, FPCCI issued the provisional list of nominees of the member trade bodies for the general body and executive committee for the year 2024-2025. APTMA's nominees appeared at Serial No. 381 and 382 of the said Provisional List.

[A copy of the cover letter dated 04.11.2023 and the relevant excerpt of the provisional list are placed herewith and marked as Annexure-D and Annexure-E respectively]

4. The Respondent No. 1 filed his objection dated 10.11.2023 before the Secretary General, wherein he raised the following objections on the nomination of the Appellant No. 2:

- a. The nomination papers state that the Appellant No. 2 is a director of "*Din Industries Private Limited*" whereas the record with various regulators reveals that the status of the entity is that of a "*limited company*".
- b. The Appellant No. 2 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.

5. The Secretary General, FPCCI scheduled a hearing of the Respondent No. 1's objection on 14.11.2023. The Appellants' Legal Counsel appeared before the Secretary General on the said date and submitted the following in response to the objections raised by the Respondent No. 1:

- a. The reference to "*Din Industries Pvt Ltd*" in the nomination papers submitted by APTMA was due to a clerical error. In fact, APTMA's member is "*Din Industries Ltd*" as evidenced by the membership certificates attached to APTMA's nomination papers, which clearly show that the membership certificate was issued in the name of *Din Industries Ltd*, and not a Pvt Ltd company. The receipt for payment of renewal fees for APTMA's

membership also shows that it has been paid by Din Industries Limited. Further, in the FBR verification attached to APTMA's nomination papers, the entity is also referred to as *Din Industries Ltd*. The fact is that the entity that exists, and which is a member of APTMA, is *Din Industries Ltd* (which is reflected by the record) and the reference to *Din Industries Pvt Ltd* was a clerical error.

[A copy of the payment receipt date for Din Industries Limited's renewal fee is placed herewith and marked as Annexure-F]

- b. Due to an oversight and a clerical error, APTMA's list of members attached with its nomination papers refers to Din Industries Pvt Ltd, when it should actually refer to Din Industries Ltd. APTMA has updated its list since learning of this clerical error. The Memorandum and Articles of Association of Din Industries Ltd show that Mr. Shaikh Mohammad Imran is a director of Din Industries Ltd.

[A copy of the Memorandum and Articles of Association of Din Industries Limited is placed herewith and marked as Annexure-G]

- c. 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. Shaikh Mohammad Imran'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 ("2013 Rules") read with Article 9(d) of the FPCCI's Memorandum and Articles of Association.

6. Following the hearing of the Respondent's No. 1's Objection on 14.11.2023, the Secretary General sent a Clarification of the same date (i.e., 14.11.2023) to the Secretary General, FPCCI, clarifying APTMA's nomination and reiterating the grounds taken by the Appellants' legal counsel in the hearing before the Secretary General, APTMA.

[A copy of the Clarification sent by the Secretary General, APTMA to the Secretary General, FPCCI is placed herewith and marked as Annexure-H]

7. Following the hearing of the Respondent No. 1's Objection, the Secretary General, FPCCI passed the Impugned Order dated 15.11.2023. The Impugned Order is contrary to the facts, unlawful and liable to be set aside on the following, amongst other:

GROUNDS

- A. The Impugned Order has failed to appreciate that the reference to "*Din Industries Pvt Ltd*" in the nomination papers submitted by APTMA was due to a clerical error. In fact, APTMA's member is "*Din Industries Ltd*" as evidenced by the membership certificates attached to APTMA's nomination papers, which clearly show that the membership certificate was issued in the name of *Din Industries Ltd*, and not a Pvt Ltd company. Further, in the FBR verification attached to APTMA's nomination papers, the entity is also referred to as *Din Industries Ltd*. The fact is that the entity that exists, and which is a member of APTMA, is *Din Industries Ltd* (which is reflected by the record) and the reference to *Din Industries Pvt Ltd* was a clerical error. No harm or prejudice is caused to the Respondent No. 1 or any other person on account of the said clerical errors.
- B. The Impugned Order has failed to appreciate that the reference to *Din Industries Pvt Ltd* in APTMA's list of members attached with its nomination papers was due to an oversight and a clerical error, when it should actually refer to *Din Industries Ltd*. All other record held both with APTMA and the relevant authorities list the entity of which the Appellant No. 2 is a director of *Din Industries Limited*. APTMA has updated its list since learning of this clerical error. The Memorandum and Articles of Association of *Din Industries Ltd* show that Mr. Shaikh Mohammad Imran is a director of *Din Industries Ltd*. Once again, No harm or prejudice is caused to the Respondent No. 1 or any other person on account of the said clerical error.
- C. The Impugned Order has failed to sight any provision of law pursuant to which it has accepted the Respondent No. 1's objection with respect to the mistaken reference to the Appellant No. 1's entity as *Din Industries Pvt Ltd* in APTMA's nomination papers.

- 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 APTMA 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 APTMA'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. The impugned order is against the law, facts and circumstances of the case available on record.
- G. 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.
- H. The Impugned Order has been passed in sheer violation of the 2013 Rules and the Trade Organization Act, 2013 ("2013 Act"), which provides the complete mechanism for the inclusion/exclusion/deletion of any entry in the provisional/ final voter list.
- I. The impugned order was passed outside of the scope and limitations of the law and is, therefore, not sustainable.
- J. While deciding the Respondent No. 1's Objection and passing the Impugned Order, the Secretary General, FPCCI did not properly appreciate the documents/evidence on the record, hence, the Impugned Order is the result of misreading and non-reading of the evidence.

- K. The Appellants respectfully seek leave to urge further grounds at the time of hearing of the instant Appeal.

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) Mr. Shaikh Mohammad Imran of Din Industries Ltd be accepted as APTMA's nomination for Corporate Class for the FPCCI's election for the year 2024-2025; and
- (c) Mr. Shaikh Mohammad Imran'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.

APPELLANTS

Through

MALIK GHULAM SABIR
Advocate High Court

ASAD LADHA
Advocate High Court