**Fundamental Rights and Election Symbol**

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Subject to any reasonable restrictions imposed by the law in the interest of public order, morality, or Pakistan’s sovereignty or integrity, there is no legal doubt that the Elections Act 2017 and Article 17 of the Constitution, which has been amended four times since 1973, recognize that everyone has the right to organize into groups or unions. Article 17(3) of the Constitution, as amended by Section 203 of the Election Act 2017, thereby grants the right to form a political party, join it, maintain affiliation with it, engage in political activities, and contest for public office to any citizen of Pakistan who is not employed by the government. However, as both the Constitution and the law specify, these essential rights as stated in the second half of this Article are subject to any justifiable restrictions established by the law. The Elections Act of 2017 is one piece of legislation that the Parliament passed in compliance with Article 17 of the Constitution.

In compliance with Sections 200 and 201 of the Election Act of 2017, a political party may be founded and registered in Pakistan with a unique identity for its national, provincial, and local structures by submitting its Constitution. Federal, provincial, and local office-bearers of political parties shall be elected in line with the party’s constitution regularly, with a maximum of five years between elections, as further mandated by section 208. The Election Commission can refuse to award an election symbol to any such political party or combination of political parties in subsequent elections under section 215 of the Election Act if the party or parties to which a show cause notice has been issued under sub-section (4) of section 215 fail to comply with the provisions of section 209 relating to intra-party affairs or section 210 for financial matters. This is required to have serious consequences and comply with the law. Section 215’s language was never added; it was always a part of the Elections Act of 2017, and all the political parties were well aware of it.

In a court of law, legal representations and arguments cannot be superseded by political narratives, and any such attempts may incur a political price, which in the present case, PTI is paying.

The political party in this case has been reminded numerous times to comply with the mandatory requirement since May 2021, as shown in the record and undeniably true. Failure to comply with this requirement could have serious consequences for the party in a general election under section 215, but it has not been done so. Additionally, during the intraparty election process under section 209 and section 215 of the Election Act in December 2023, an admission was made before the Election Commission regarding such serious violations of the Party Constitution, the appointment of a federal election commissioner and, consequently, of the Election Act 2017. This admission is reflected in the Election Commission order dated 22-12-2023 and has not been refuted or justified before the appellate forum.

An apparent legal and political strategy can be called into question because, in addition to the intraparty election that took place on December 2, 2023, in compliance with the Election Commission’s order dated November 23, 2023, the PTI filed a report and the Election Commission received a request for certification under section 209 of the Election Act. However, concurrently with this request, the November 23rd 2023 order was also contested in the Lahore High Court, and the case is still pending before a larger bench of the Lahore High Court. The Peshawar High Court has also heard and rendered a decision on the same intraparty election dispute in accordance with an order dated 22-12-2023. According to the law, it is not permissible or feasible to contest the same matter before two or more forums or courts, as determined by the higher courts. Additionally, the Supreme Court noted that in its current ruling.

The Benazir Bhutto case referred to and the present case’s facts and legal framework, according to the Supreme Court, are quite distinct from one another. First off, the Elections Act, which is the subject of this discussion, was approved by a Parliament that is democratically elected; on the other hand, the unlawful modifications to ROPA were made by a single person. Second, the Elections Act mandates that party affiliation be the basis for general elections, acknowledging the significance of political parties. The Elections Act requires all political parties to organize intra-party elections to fortify them even more. Fourth, without providing every member of the party with an equal chance to compete for office, political parties cannot continue to be democratic. Fifth, under the Election Act of 2017, there are sanctions stated for political parties that do not routinely hold elections inside their parties. Section 215 of the Election Act prohibits the party from using its election insignia, as one of these consequences and further law is still infield.

In particular, Article 17(2) specifically states that these fundamental rights are also subject to any legitimate limitations imposed by law, as stipulated by both the Constitution and the law made there under. The Election Commission has repeatedly reminded the political party (PTI) of this since May 2021 under the relevant provisions of the Election Act when it was both in the federal government and two provinces (Punjab and KPK). Relying solely on one part of Article 17 of the Constitution is not the only resolution, legal option, good argument, or legally sustainable for allotment of election symbol without complying with the other mandatory legal requirements.

Political parties are always required to take legal safeguards and abide by the law, especially section 215 of the Election Act; otherwise, there may be severe legal ramifications including the Election Commission shall not grant an election symbol to any political party or combination of political parties in subsequent elections. This is particularly true with regard to the application of Section 2015 of the Election Act, which was passed in 2017 and has not yet been declared legally invalid by Superior Courts. The political parties including PTI in Pakistan were fully aware of this provision’s legal ramifications.

Legal challenges against orders issued by authorities, like the Election Commission, are always conceivable before superior courts on the grounds of discrimination, misuse of authority, fraud, inappropriate use of discretion, and legal infractions. But as the record demonstrates, not a single one of these defences has been effectively argued or established before the Supreme Court in the current case. Therefore, in a court of law, legal representations and arguments cannot be superseded by political narratives, and such may as well cast a political price, which in the present case PTI is paying for the upcoming 2024 election.

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