IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:
MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE FAISAL ARAB
MR. JUSTICE SAJJAD ALI SHAH

CIVIL PETITION NO. 1616 OF 2018
(On appeal against the judgment dated 26.04.2018 passed by the Islamabad High Court, Islamabad in Writ Petition No. 2907/2017)

Khawaja Muhammad Asif

... Petitioner

VERSUS

Muhammad Usman Dar and others

... Respondents

For the Petitioner: Mr. Munir A. Malik, Sr. ASC
Mr. Rashdeen Nawaz Kasuri, ASC
Mr. Zahid F. Ebrahim, ASC
Assisted by:
Ch. Najam-ul-Hassan, Advocate
Mr. Ahmed Nawaz Chaudhry, AOR

For the Respondent (1): Mr. Sikandar Bashir Mohmand, ASC
Mr. Tariq Aziz, AOR

For the Respondent (2): N.R.

For the Respondent (3): Mr. Waqar Chaudhry, DPA (Litigation)

Dates of Hearing: 07.05.2018, 21.05.2018, 31.05.2018 & 01.06.2018

JUDGMENT

FAISAL ARAB, J.- The petitioner has impugned the decision of the Islamabad High Court dated 26.04.2018 rendered in a constitution petition in which respondent No.1 succeeded in obtaining a writ in the nature of *quo warranto* against the petitioner, who was a member of the National Assembly and holding the portfolio of foreign minister. The case of respondent

No.1 before the High Court was that the petitioner whilst holding public offices in Pakistan continued to serve a UAE based company called the International Mechanical & Electrical Company LLC as its fulltime employee. It was submitted that the petitioner held the portfolio of federal minister for Water & Power from 08.06.2013 to 28.07.2017 and foreign minister from 04.08.2017 to 26.04.2018 and hence not only violated the oath of his office and the rule of conflict of interest but also failed to disclose his monthly salary derived from such employment in the statement of assets and liabilities filed under the provisions of Sections 12 (2) (f) and 42A of the Representation of the Peoples Act, 1976, now repealed (RoPA for short) and thus stood disqualified to be member of the National Assembly.

2. Disqualification of the petitioner was also sought on the ground that no income tax on salary derived from employment with the UAE Company was paid, which was his obligation under Section 102 of the Income Tax Ordinance, 2001. Yet another ground on the basis of which disqualification was sought that the petitioner failed to declare a sum of AED 5,000/- in his statement of assets and liabilities which were lying deposited in his account bearing No. 6201853775 maintained with National Bank of Abu Dhabi, UAE on the date when he filed his nomination paper.

3. In the impugned judgment the reasons that mainly prevailed with the learned High Court in disqualifying the petitioner under Article 62 (1) (f) of the Constitution were; that the petitioner's employment with a UAE based company at the time

when he was a member of the federal cabinet has given rise to serious questions of conflict of interest; that the source of income from foreign employment and the salary derived therefrom was not appropriately disclosed by the petitioner in his nomination paper as only 'business' was declared to be his source of income; that the petitioner did not pay income tax on the foreign salary under Section 102 of the Income Tax Ordinance, 2001 and; that the petitioner failed to declare a sum of AED 5,000/- that were lying deposited in his account No. 6201853775 maintained with National Bank of Abu Dhabi in a UAE bank. Aggrieved by this decision of the High Court, the petitioner has filed the present petition.

4. Learned counsel for the petitioner argued that the High Court erred in not considering the fact that the entire controversy was put at rest in the election petition which ought not to have been set at naught in a fresh round of litigation initiated through a *quo warranto* proceedings on account of the bar contained in Article 225 of the Constitution. On merits of the case he submitted that the petitioner was justified in describing his occupation as business, which was his dominant source of income; that the petitioner had disclosed his monthly salary settled under the foreign employment contract in the tax return filed with the nomination papers and as no cash was left in hand from such salary in the form of savings, all being already spent, after stating the salary to be AED 9,000/- the figure '0' was written in the tax return, hence it cannot be said that income from salary was concealed and; that non-disclosure of a sum of AED 5,000/- lying deposited in petitioner's UAE bank

account No. 6201853775 was only an honest omission. He submitted that in the presence of these facts, there was no basis for the High Court to conclude that the petitioner fell short in fulfilling the condition of honesty as envisaged in Article 62 (1) (f) of the Constitution, particularly when there were no allegations of embezzlement, bribery or misappropriation of public property was made against him in the writ petition.

5. In rebuttal, learned counsel for respondent No. 1 argued that by declaring his occupation to be business, the petitioner concealed the fact that he also derived income from salary under a written employment contract executed with the UAE based company; that he took employment with UAE based company while holding the portfolios of Defence and Finance Minister, which raised the question of conflict of interest; that no income tax was paid on his foreign salary income under the laws of Pakistan. Lastly it was argued that the petitioner also failed to list AED 5,000/- as one of his assets which were admittedly lying deposited in his bank account maintained with the National Bank of Abu Dhabi at the time of filing his nomination paper and hence failed to demonstrate himself as an honest person in terms of Article 62 (1) (f) of the Constitution.

6. Before we proceed to examine the merits of the case, we find it appropriate to first discuss the scope of Article 62 (1) (f) of the Constitution in matters that relate to failure of an elected member of the National Assembly or a Provincial Assembly to declare his assets in his nomination paper.

7. The provisions of election laws are designed to facilitate the general public to know what assets the contesting candidates own and what liabilities they owe before they are elected and what variation has taken place in their assets and liabilities on a year on year basis after being elected. Hence the election laws require every contesting candidate to file his or her statement of assets and liabilities and when elected was required to declare his assets and liabilities every year with the Election Commission. In this manner the net-worth of all elected members is maintained on the records of the Election Commission which is useful in noticing changes that may have occurred in their assets and liabilities after entering upon their office. In case an asset not declared by an elected member comes to light, his details of assets and liabilities would help in ascertaining whether concealment was intended to cover some wrongdoing. The whole purpose behind seeking details of assets and liabilities under the election laws is to discourage persons from contesting elections for a seat in the Parliament or a Provincial Assembly who have concealed assets acquired through some wrongdoing. Simultaneously it also aims at those members as well who hitherto may have held untainted record, be discouraged from indulging in corruption and financial wrongdoings after entering upon their office. Hence whoever contests an election for a seat in the Parliament or a Provincial Assembly, is mandatorily required by law to be forthright in declaring all his assets which he owns and all liabilities he owes. Before RoPA was repealed and replaced by the Election Act, 2017 it was applicable to the all candidates who contested the 2013

elections. Under Section 12 (2) (f) of RoPA where an asset owned by a contesting candidate was not declared at the time of filing of the nomination paper for any reason and such non-disclosure was timely brought to the notice of the Returning Officer, he had the power to reject the nomination paper under Section 14 (3) (c) of RoPA. Such rejection was avoidable under proviso (ii) of Section 14 (3) (c) of RoPA which states that the Returning Officer shall not reject a nomination paper where the defect was remedied forthwith. In case the defect was not remedied and the nomination paper was rejected, even then, in terms of the proviso (i) to Section 14 (3) of RoPA, such candidate was still competent to contest the election if he had filed another nomination paper either in the same constituency or in another constituency that fulfilled all the requirement of Section 12 (2) (f) of RoPA. In case he has not chosen to contest elections from any other constituency, he still remained eligible to contest any future election and the earlier rejection of his nomination paper would not be an obstacle merely on account of non-compliance with the requirements of Section 12 (2) (f) of RoPA. So where an omission to declare an asset had been pointed out by any rival candidate to the Returning Officer at the appropriate stage of the election process, it would at best result in rejection of the nomination paper. Where the objection to seek such rejection has failed before the Returning Officer or before the Election Tribunal constituted to hear Election Appeals before the elections or the time to throw such challenge has gone by, the stage to challenge the candidature of a contesting candidate at pre-polling stage comes to an end. After the elections, the rival candidate may choose to file an election petition before the Election Tribunal to

challenge the candidature of an elected member for non-compliance with the provisions of elections laws. When the above stated stages of challenge under the election laws are over, the belated awakening of the rival candidate to point out any omission with regard to non-declaration of an asset would be hit by the bar contained in Article 225 of the Constitution. However, there is exception to this rule of finality, which we shall now proceed to discuss.

8. It may so happen that an undeclared asset of an elected member that stands in his own name or in the name of his spouse or dependent children or any of his business entities gets discovered after the time to challenge an election under the election law has expired and had it been declared it would have exposed his dishonesty qua such an asset. The right time to call in question such concealment would obviously arise when such a fact becomes known, therefore, no cutoff period can be fixed or legal bar can be imposed to seek a declaration of dishonesty with regard to such an asset that remained concealed from the records of the Election Commission. We may clarify here that this declaration of dishonesty cannot be sought from the Returning Officer at the time of raising objections to a nomination as his scope of work is only to scrutinize the nomination papers in a summary manner within two to three days and at the most reject a nomination for non-compliance with the requirement of making requisite declarations but not to pass a judicial verdict on the issue of honesty of a contesting candidate in terms of Article 62 (1) (f) of the Constitution. Thus upon finding a nomination paper to be

noncompliant with the election law all that a Returning Officer can do is to reject a nomination paper without attributing any sort of dishonesty to the contesting candidate. It is only when a contesting candidate has already been declared disqualified under Article 62 (1) (f) of the Constitution by a competent court of law that the Returning Officer can reject his nomination paper straight away on that basis. Hence where an undeclared asset that had remained concealed from the records of the Election Commission comes to light and some dishonest act is associated with such an asset then the court of competent jurisdiction would scrutinize the issue of disqualification within the ambit of Article 62 (1) (f) of the Constitution. If the outcome of the scrutiny is that a declaration of dishonesty is to be made then the court would make such a declaration or it may in the first instance choose to put the investigative machinery of the state into motion. Based on the material coming on the record the test of honesty would be applied and in case the elected member is found dishonest he would be disqualified for life.

9. While considering a case of dishonesty in judicial proceedings what should not be lost sight of is that on account of inadvertence or honest omission on the part of a contesting candidate a legitimately acquired asset is not declared. This may happen as an honest person may perceive something to be right about which he may be wrong and such perception cannot necessarily render him dishonest though the omission would invariably result in rejection of his nomination paper had such a fact is pointed out to the Returning Officer at the time of scrutiny

of nomination papers or in proceedings available under the election laws. There are many conceivable instances where an omission to declare an asset on the face of it cannot be regarded as dishonest concealment. For example, where an inherited property is not declared on account of mistake of fact or an asset acquired from a legitimate source of income is not listed in the nomination paper. Suchlike omissions at best could be categorized as bad judgment or negligence but certainly not dishonesty. As mentioned earlier even the proviso to Section 14 (3) (d) of RoPA envisaged that rejection of a nomination paper on account of failure to meet the requirements of Section 12 of RoPA would not prevent a candidate to contest election on the basis of another validly filed nomination paper. Hence mere omission to list an asset cannot be labeled as dishonesty unless some wrongdoing is associated with its acquisition or retention which is duly established in judicial proceedings. In our view attributing dishonesty to every omission to disclose an asset and disqualify a member for life could never have been the intention of the parliament while incorporating Article 62 (1) (f) in the Constitution. All nondisclosures of assets cannot be looked at with the same eye. In our view no set formula can be fixed with regard to every omission to list an asset in the nomination paper and make a declaration of dishonesty and impose the penalty of lifetime disqualification. In a judgment from the foreign jurisdiction in the case of *Aguilar vs. Office of Ombudsman* decided on 26.02.2014 by the Supreme Court of Philippines (G.R. 197307) it was held that dishonesty is not simply bad judgment or negligence but is a question of intention. There has to exist an element of bad intention with regard to an undeclared

asset before it is described as dishonest. Unless dishonesty is established in appropriate judicial proceedings, Article 62 (1) (f) of the Constitution cannot be invoked to disqualify an elected member for life.

10. Where a matter with regard to an undisclosed asset is taken to court, it would not form the opinion that it is a case of dishonest concealment without first calling upon the elected member to explain the source from which such an asset was acquired. Where no satisfactory explanation is forthcoming and the undeclared asset also does not commensurate with the elected member's known sources of income, it would give rise to the presumption that unlawful means may have been applied with regard to such an asset. It is the credibility of the explanation that would be the determining factor as to whether nondisclosure of an asset carries with it the element of dishonesty or not. The test of honesty with regard to non-disclosure of assets and liabilities is to be applied in that context only and certainly not in a case where a clean asset has not been declared on account of bad judgment or inadvertent omission. In the impugned judgment, the learned High Court itself was conscious of the fact that where there is a case of non-disclosure of an asset the same *ipso facto* does not render a person to be dishonest. In this regard, a judgment of this Court cited by respondent No. 1's counsel in the case of Rai Hassan Nawaz Vs. Haji Muhammad Ayub (PLD 2017 SC 70) was referred where it was held as follows:-

"8. We, therefore, observe that any plausible explanation that exonerates, inter alia, mis-declaration of assets and liabilities by a contesting candidate should be confined to unintended and minor errors that do not confer any tangible benefit or advantage upon an elected or contesting candidate. Where assets, liabilities, earnings and income of an elected or contesting candidate are camouflaged or concealed by resort to different legal devices including benami, trustee, nominee, etc. arrangements for constituting holders of title, it would be appropriate for a learned Election Tribunal to probe whether the beneficial interest in such assets or income resides in the elected or contesting candidate in order to ascertain if his false or incorrect statement of declaration under Section 12(2) of the ROPA is intentional or otherwise. This view finds support from the statutory aim and purpose of requiring all contesting candidates to file their statements and declarations as envisaged in Section 12(2) of the ROPA. Clearly there is a public interest object behind the statutory prescription for obtaining the said statements and declaration. It is to ensure integrity and probity of contesting candidates and therefore all legislators.

11. The above discussed essential element of disqualification with regard to non-declaration of an asset within the ambit of Article 62 (1) (f) of the Constitution has also been recognized in a recent judgment of this Court in the case of Muhammad Hanif Abbasi Vs. Imran Khan Niazi (PLD 2018 SC 189) wherein in paragraphs 100 and 103 holding as under:-

"100. In the passage referred above, the Court is addressing an undisclosed asset, existence whereof is expressly admitted through the coffers of an entity whose financial dealings were already doubted and formed part of the network of persons and entities allegedly holding disproportionate assets attributed to the erstwhile Prime Minister, his dependents and benamidars. It cannot, therefore, be contented that dishonesty is attributed in the said judgment without reference to any alleged design, intention, scheme, background or impropriety. Consequently, to our minds the larger Bench has not expunged the requirement of establishing the "dishonesty" of conduct of an aspirant or incumbent member of a Constitutional Legislature in order for the disqualification under Article 62 (1) (f) of the Constitution and Section 99 (f) of the ROPA to be attracted. Each and every word in the Constitution bears a meaning and place, which must be given effect because redundancy cannot be assigned to the Constitution. Accordingly, in earlier judgments by this Court in the matter of "dishonest conduct," violation of constitutional norms required by Article 62 (1) (f) in its phrase "honest and ameen" have been deduced with caution and care.....

To the same effect are observations made in Iftikhar Ahmad Khan Bar v. Chief Election Commissioner Islamabad and others (PLD 2010 SC 817).

> *103. The insistence by learned counsel for the petitioner that any error or omission in the declaration of assets by a candidate for election or a legislator incurs his disqualification under Article 62 (1) (f) of the Constitution posits a wide proposition of law. If at all, this may have limited relevance where the context involves corruption or money laundering in state office, misappropriation of public property or public funds, accumulation of assets beyond known means or abuse of public office or authority for private gain. These allegations are not germane to the present case. There is no involvement here of public property or funds, abuse of public office and authority, corruption or breach of fiduciary duty. Consequently, the argument of the learned counsel for the petitioner on this score fails.*

12. Making differentiations and distinctions are the tools that are always applied in judicial proceedings in the determination of the penalties and punishments, therefore, the notion of proportionality and making distinctions cannot be lost sight of while considering an omission to declare an asset. Intervention through a writ in the nature of *quo warranto* in financial matters against an elected member can only be justified when non-disclosure of an asset is meant to conceal a wrongdoing. As law does not envisage that every rejection of nomination paper on account of non-disclosure of an asset would lead to disqualification under Article 62 (1) (f) of the Constitution therefore unless some wrongdoings associated with an undeclared

asset is established the outcome of the case would not culminate into disqualification for life.

13. Having discussed the circumstances in which Article 62 (1) (f) of the Constitution can be invoked in the matters relating to declaration of assets, we shall proceed to examine the first ground of attack with regard to the petitioner's employment contract executed with a UAE based company that required him to serve as a fulltime employee in UAE on monthly salary basis.

14. Before the High Court both the petitioner's counsel and the UAE Company which expressed its stand by filing a certificate, had maintained that the petitioner was not required to be physically present in UAE to serve the company. It was stated that he was to render advice on phone only. The learned High Court however in its decision treated the petitioner as a fulltime employee who served the company with his physical presence in UAE. In this background, what needs to be examined is whether the petitioner actually went to UAE to serve the company or rendered advice on phone or was the employment contract intended to whiten black money. From the amalgam of these divergent situations truth needs to be spotted.

15. It is highly inappropriate for a parliamentarian or member of a provincial assembly, who holds a position in the cabinet, to take a fulltime job in a foreign country where in terms of the written contract he is committed to work six days a week, however at the same time it seems highly improbable that a person

holding such a position would actually be rendering his services as a fulltime employee elsewhere. Had it been true, it would have certainly become headline news in this day and age where such kind of information does not remain hidden from the media for long. It would have also been a case of frequent absence of the petitioner from Pakistan at the expense of his official duties. On the basis of the contents of the contract of employment the status of the petitioner was though shown to be of a fulltime employee of the UAE Company but in actuality the petitioner is not shown to have gone to UAE to work for the company in such capacity. He retained his presence in Pakistan as a member of the federal cabinet. Even if the petitioner had rendered legal advice on phone, the respondent has failed to demonstrate that the petitioner or any of his family members own any shares in the foreign company which has financial dealings with the federation of Pakistan and their competing financial interests have undermined the impartiality of the petitioner by leaking any information to the said company or unduly benefited it in any manner that falls within the ambit of conflict of interest. It has also not been established that the petitioner by using his official position was instrumental in extracting some undue benefit from the Federal Government in favour of the UAE Company.

16. Black's Law Dictionary defines conflict of interest as 'a real or seeming incompatibility between ones private interest and one's public or fiduciary duties'. To serve personal interest means to give 'preferential treatment' by using one's official privileges or misusing confidential information to benefit someone else or one's

own interests. There are numerous examples that come to mind which can reflect the essence of a conflict of interest situations such as the prospect of personally gaining financial benefits subject to an approval of a project, introducing policy that are friendly to one's private interests or lobbying to approve a friend's tender or application just to help his interests. In the present case there is absolutely no allegation that the petitioner received some lucrative opportunity in exchange for conferring benefits or sharing confidential information thereby abusing his public office. The respondent has absolutely failed to point out any decision which the petitioner had taken in discharge of his official duties that was likely to result in any financial or other material benefits for himself or his family or friends or any decision he took that had influenced him in the performance of his official duties. Thus no case of conflict of interest is made out.

17. For whatever its worth, as the execution of the employment contract with the UAE Company is an undeniable reality, the petitioner was required to declare the salary settled thereunder. Failure to do so would have resulted in taking the risk of rejection of his nomination paper on account of concealment of one of his sources of income. The petitioner's counsel submitted that as the salary received from the UAE Company for rendering legal advice on phone had already been spent by the petitioner, therefore while the monthly salary was disclosed in the tax return filed with the nomination papers, nothing was left in hand as savings from the salary to be declared as an asset hence the figure '0' was written in the relevant column of the tax return after

recoding the monthly salary settled under the foreign contract. Many people involved in politics make their living by taking employment with private persons or private companies. When they contest elections they are required under election laws to declare their sources of income, the assets they hold and the liabilities they owe. Where a person deriving income from salary has already spent it then all that is required to be disclosed is the source from which he derives his salary, not the entire quantum of salary that he received as it no more exists in his hand in the form of an asset. Hence, the occasion to declare salary as an asset arises only when at the stage of filing nomination papers it has either accrued but the employee at his own instance has not collected from the employer, who keeps it in trust for the employee or where the salary has been received but after spending some of it, part of it still exists as his savings in the form of cash-in-hand or cash-in-bank. So the salary that has not been collected at the option of the employee or the savings from the salary that exists in the hands of the employee at the time of contesting elections needs to be declared as an asset in the nomination paper. It seems that without looking at these aspects, respondent No.1 raised the issue of non-declaration of salary income by merely reading the contents of the written employment contract and the learned High Court went with such reading, though the learned High Court has clearly acknowledged in the impugned judgment that the salary under the foreign employment contract has been declared in the tax return that was filed with the nomination paper. The learned judge of the High Court however erroneously defined such disclosure to be ‘vague and obscure’ and went on to declare the petitioner dishonest.

Petitioner's declaration of foreign salary as one of his sources of income under the foreign employment contract exists on the record, so it can't be said that it is case of non-declaration of a source of income.

18. One can speculate that the employment contract was intended to create a fake source of income in order to convert black money into white**.** In the present case, however, allegations such as embezzlement, bribery or misappropriation of public funds or property has not been attributed to the petitioner which only would have served as a basis to scrutinize the matter in that context as well. Even otherwise there was no need for the petitioner to show '0' receipt against the foreign salary declared in his tax return filed with the nomination paper, as declaring substantial savings out of salary income under the foreign employment contract would have served the purpose of whitening any black money which the petitioner may have been holding. In the present case no savings from foreign salary have been shown to have existed in the hands of the petitioner when he filed his nomination paper. As already discussed, only where salary has been earned but not yet collected from the employer or where any part of it has not yet been spent and exists in the form of savings was required to be declared. In the present case, no part of salary earned but not yet collected from the employer or any part of unspent salary was demonstrated to have existed in order to make out a case of concealment. In the circumstances the explanation given by the petitioner's counsel that no part of the salary settled under the foreign employment contract was in the hands of the petitioner at the time of filing of

nomination paper cannot be brushed aside. In the case of *Rai Hassan Nawaz* supra, it has been held that there is a public interest behind the statutory prescription for obtaining the statements of assets and liabilities so that integrity and probity is maintained by the contesting candidates. It was further held that where an asset is not disclosed and where no plausible explanation is forthcoming only then an elected member is to be unseated. In the present case the respondent No.1 has failed to rebut the explanation of the petitioner and failed to point out that salary proceeds or any part of it, whether in cash or kind or in the form of receivables existed at the time of filing of the nomination papers which remained undeclared. Thus no case of concealment of an asset is made out.

19. Disqualification has also been sought on the ground that income tax on the foreign salary income under the employment contract with the UAE based company has not been paid by the petitioner. In this regard the learned High Court held that Section 102 of the Income Tax Ordinance, 2001 provides that any foreign salary received by a resident individual shall be exempt from tax only when the individual has paid income tax in the country where it was earned and nothing was placed on record to show compliance with this legal requirement. Keeping aside for a moment our doubts with regard to the real object behind executing the employment contract, we would proceed to examine the question of non-payment of income tax purely on the legal plain. Section 12 (2) (d) of RoPA required every contesting candidate to make a declaration that they or their spouses or any of their

dependents or the business entities mainly owned by them are not in default in payment of any government dues or utility charges in excess of ten thousand rupees for over a period of six months at the time of filing the nomination papers. In our view, such default can only be established had it been shown that a bill or a recovery or demand notice or an assessment order was issued by an authority that is competent to recover government dues yet the same has remained unpaid. However, that is not the case in the present proceedings. Hence in absence of any such demand from the concerned government department, the court in the proceedings in the nature of *quo warranto* cannot take upon itself the obligation to make assessment of tax on its own which only the income tax department is competent to do under the law. In absence of a tax demand from the tax department, the learned High Court ought not to have assumed the role of determining petitioner's tax liability after being quite conscious of the fact that it cannot assume such a role when it observed in the impugned judgment *"We are not concerned with violations of the tax laws"*. Hence no case for disqualification is made out on this ground as well.

20. Petitioner's disqualification has also been sought on the ground that he had AED 5,000/- in his account bearing No.6201853775 maintained with National Bank of Abu Dhabi, UAE which he failed to disclose in his nomination paper filed at the time of contesting 2013 general elections. He explained the omission by stating that it happened due to oversight. This bank account was however disclosed in the statement of assets and

liabilities filed in the year 2015 as required under Section 42A of RoPA. A complete bank statement of the said account is on the record which reflects that the petitioner opened his account on 17.04.2010 with a sum of AED 5,000/- and five years later closed it on 07.07.2015. In the interregnum, the bank had only been debiting bank charges periodically which brought down the original deposit amount from AED 5,000/- to AED 4,715/-. This balance amount was finally withdrawn from the account when it was closed. So right from the day the bank account was opened and till its closure, no business was transacted in the said account which substantiates the plea taken by the petitioner that non-disclosure was an innocent omission and not intended to conceal some wrongdoing. We are not oblivious of the fact that a bank account may reflect certain transactions of substantial value which have already taken place and scrutiny of such transactions may lead to disclosure of illegal financial dealings regardless of the meager amount lying deposited. However, that is not the case here as other than making a deposit of AED 5,000/- no transaction has taken place in the said account which throughout its life remained dormant. Hence the petitioner cannot be labeled dishonest for omitting to declare such a small amount under Article 62 (1) (f) of the Constitution.

21. In the present case neither a case of conflict of interest is made out nor has any wrongdoing associated with any asset belonging to the petitioner has been established in order to warrant interference in proceedings in the nature of *quo warranto*.

22. Above are the reasons for our short order dated 01.06.2018 whereby we converted this petition into appeal and allowed it after reaching the conclusion that the decision of the leaned High Court in disqualifying the petitioner under Article 62 (1) (f) of the Constitution is not sustainable in law and thus no case for issuance of a writ in the nature of *quo warranto* was made out.

JUDGE

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JUDGE

Islamabad, the
19th of October, 2018
Approved for Reporting
Khurram