

What are the key considerations for Biometric verification of thumb impression of voters in Electoral Disputes?

Election disputes are a crucial aspect of the democratic process, ensuring the integrity and fairness of elections. One of the key mechanisms for resolving disputes over voter identity is biometric verification, specifically the verification of thumb marks. However, the jurisprudence developed by the Courts hold that the Election Tribunals must carefully consider a range of parameters, including the *presence of prima facie evidence, specific allegations of massive rigging and impersonation, feasibility*, and the *overall impact on election integrity*. By adhering to these parameters, election tribunals and courts can make informed and balanced decisions that uphold the principles of fairness and transparency in elections. The relevant excerpt from the said judgments are reproduced below for ready reference:

Excerpts from Relevant Judgments

1. Mir Tariq Mehmood Khetran vs. Returning Officer, NA-259 and Others [2019 MLD 1335]. In this case Hon'ble Justice Muhammad Hashim Khan Kakar emphasizes the necessity for substantial evidence in proving allegations of irregularities and justifying biometric verification. The petitioner had alleged that 624 votes from polling station No. 211 were not included in the Consolidated Statement by the Returning Officer. The court found this fact alone sufficient to establish that irregularities and illegalities occurred during the vote count. Additionally, a letter from the Commissioner of Balochistan to the Chief Secretary supported the petitioner's claims. The Court ruled that serious allegations supported by material evidence justified the biometric verification of thumb impressions to ensure election integrity.

2. Khawaja Saad Rafique and Others vs. Hamid Khan and Others [PLD 2018 Supreme Court 749] In this case Hon'ble Justice Mushir Alam's judgment underscores that allegations must be substantiated with evidence before biometric verification can be ordered. In this case, the petitioner's initial request for verification of the entire electoral record was declined due to insufficient evidence. The court emphasized that the mere contents of an election petition do not equate to legal evidence. It ruled that only upon concluding the petitioner's evidence and finding instances of impersonation should biometric verification be considered.

3. Aijaz Hussain Jakhrani vs. Illahi Bux Soomro and Others [PLD 2014 Sindh 90] In this case Hon'ble Justice Faisal Arab highlights the procedural sequence for biometric verification, advocating for documentary evidence to precede oral testimonies. He argued that NADRA's biometric verification report should be obtained before witnesses are examined, as it constitutes more reliable and accurate evidence compared to oral accounts. The Court stressed the importance of expediting election dispute resolutions to ensure true representatives are sent to legislative bodies promptly. This judgment promotes the efficient use of documentary evidence to establish the veracity of election-related allegations.

4. Mir Lashkari Raisani vs. Qasim Khan Suri and Others [2020 YLR 2031]. In this case Hon'ble Justice Abdullah Baloch's decision illustrates the necessity of adhering to statutory provisions during polling and the critical role of biometric verification in validating election integrity. The petitioner alleged massive rigging and voter impersonation, which the NADRA report confirmed through discrepancies and illegalities in the election materials. The judgment highlighted violations of the Elections Act, 2017, particularly Section 84, which mandates strict adherence to procedures for issuing ballot papers. The ruled that the evidence of rigging and violations justified the biometric verification of thumb impressions to ensure a fair election outcome.

5. Liaquat Ali vs. Akhtar Hussain and Others [2019 YLR 1594]. This judgment reiterates the prerequisite of prima facie evidence in justifying recount or biometric verification, particularly when significant vote discrepancies are alleged. Hon'ble Justice Abdullah Baloch observed that a large vote margin between the petitioner and the respondent does not inherently suggest irregularities. However, in cases where there is prima facie evidence of rigging and invalid ballots, such as discrepancies in the vote count or missing votes, biometric verification becomes essential to ascertain the legitimacy of the election results.

6. Muhammad Nawaz Chandio vs. Muhammad Ismail Rahu and Others [2016 SCMR 875]. This judgment underscore the importance of cogent evidence for allowing biometric verification. They emphasized that applications for recounting and re-examining election materials, including biometric verification, should be entertained only when supported by substantial material evidence. In this case, the court criticized the NADRA verification process for being conducted without the appellant's involvement, highlighting the need for transparency and adherence to legal standards in the verification process.

7. Muhammad Akram Baloch vs. Akbar Askani and Others [2014 CLC 878]. In this case Hon'ble Justice Muhammad Hashim Khan Kakar advocates for the use of NADRA's forensic examination to resolve serious allegations of rigging. The petitioner alleged that no polling occurred at specific stations and that bogus votes were cast. The court found reasonable justification for referring the matter to NADRA for biometric verification, considering the nature of allegations and the evidence presented. Justice Kakar highlighted the admissibility of electronic records as documentary evidence, reinforcing the reliability of biometric verification in resolving election disputes.

8. Raja Ameer Zaman vs. Omer Ayub Khan [2015 SCMR 890]. In this case Hon'ble Justice Sh. Azmat Saeed underscores the importance of voters' lists and counterfoils in preventing bogus voting. He emphasized that proper identification and verification processes are crucial for issuing ballot papers to bona fide electors. Any discrepancies in vote counts and counterfoils make election results questionable. The Court advocated for the preservation and proper utilization of voters' lists and counterfoils to safeguard election integrity, supporting the use of biometric verification as an effective measure against electoral fraud.

Conclusion:

In conclusion, the jurisprudence developed by the Courts, as referred in the above judgments, demonstrates that biometric verification of thumb impressions in electoral disputes underscores the necessity for a careful and evidence-based approach. The courts have consistently held that prima facie evidence of irregularities, specific allegations of massive rigging and impersonation, and the feasibility of conducting such verification are critical considerations.