

DECISION

of Central Election Commission of the Republic of Azerbaijan

on consideration of the appeal # 181 submitted to the Central Election Commission on November 14, 2015 in the Elections to the Milli Majlis of the Republic of Azerbaijan on November 1, 2015

In his written apply addressed to the Central Election Commission on November 14, 2015, Gasimli Azer Aghagasim, registered candidate Nasimi-Sabail Con.EC # 23 claimed on the violation of his rights to conduct pre-election campaign, commitment of the law violations in some polling stations of the Con.EC on the voting day and requested to annul the decision # 23/60 of the Con.EC, dated November 7, 2015 and to regard the voting results on that election constituency as invalid.

The complaint was adopted for the implementation in comply with Articles 112 and 112-1 of the Election Code of the Republic of Azerbaijan and "Instruction on the rules for submission and investigation of the appeals and complaints filed to the Central Election Commission of the Republic of Azerbaijan and Constituency Election Commissions", relevant opinion was provided on this issue by a member of the Expert Group under CEC and considered at the Commission session upon the investigation of the appeal by the Expert Group member.

During the investigation process, the candidate to deputy who had appealed was contacted and informed on his rights to submit additional documents and materials, also to participate in the investigation and session. Candidate A.A.Gasimli participated in the investigation and video records and photos submitted by him were investigated with his own participation and some acts supposed to have been compiled in the polling stations were delivered to the investigation.

He informed in the appeal that the observation was not facilitated in the polling stations # 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 25, 27, 28, 30 and 31 on the voting day, PEC members obstructed the observation process, the preparations towards the voting started late in some polling stations, the persons not included in the voters' list participated in the voting, the persons without election right entered the polling station, voting in place of another person, the voters' turnout was low in the polling stations, voters voted only with an ID card without a voter card, ballot stuffing in some polling stations, video taping was not permitted and law violations were committed during the vote count, therefore requested to annul the voting results on the polling stations mentioned in the appeal and to invalidate the voting results on the Con.EC.

The video records of the webcams installed in the polling stations # 2, 9, 11, 12, 13, 15, 17, 20, 22 and 28 of the Con.EC were viewed during the investigation and the violations claimed in the appeal and acts submitted were not justified.

The acts claimed to have been compiled in different polling stations on the voting day, submitted by the plaintiff during the investigation process was investigated and the occurrence of some contradictions was determined in some acts and it was revealed that it had not been compiled in a relevant manner. The acts compiled on the challenged polling stations were reviewed on several polling stations by selection, also in the act compiled by H.M.Mammadov at 8.085 in the polling station # 4 - the completion of the items # 1-6 of the voting results protocol before the voting

commenced and voting of 4 voters not with voter cards, but with ID cards in that polling station, in the act compiled by E.A.Hamzayev at 7.10 in the polling station # 6 – not allowing observers to enter that polling station, commencing the preparations towards the voting at 7.32 and ballot paper being in mixed form while counting them in the same polling station, in the act compiled by L.Y.Aliyeva and J.Aliyev at 8.00 in the polling station # 7 – not numbering the ballot boxes, not coming of the PEC chairman to the polling station in the PEC # 8, not permitting vide taping in the polling station # 13, not distributing duties among the commission members in the PEC # 16 and entering of some voters simultaneously in the polling station were assessed as law violations without any reason.

Furthermore, the act compiled at 7.20 on the law violations supposed to have been committed in the voting process basing on the observation of V.H.Abdullayev in the polling station # 30 was claimed to have taken place simulatneously by the same person in the polling station # 31. Obviously, due to the impossibility of compiling an act on the law violations in different polling stations by the same person at the same time, that act cannot be assessed as evidence. The acts presented to investigation were not submitted to relevant PECs in copy with Article 42 of the Election Code.

The video records and photos in CD disc attached to the complaint cannot be admitted as evidences due to their availability through violating the principles of observation. Thus, pursuant to Article 41.1.3 of the Election Code, the observation should be open and pursuant to Article 42.2.8 of that Code, the observer shall have the right to address the PEC chairman or substitute person with their suggestions and comments concerning the arrangement of the voting. And in the case mentioned in the appeal the plaintiff did not take into account that the observers had not abided by the above-mentioned requirements of the election legislation.

According to the acts compiled by the observers representing different political forces who had observed the processes since the commencement of the voting till the vote counting and compilation of the voting results protocols in the polling stations, voting and vote counting was conducted in comply with the election legislation.

Thus, a number of observers who had observed the election process in the polling stations of Nasimi-Sabail Con.EC # 23, as well as, S.Yusifova, G.Hamidova, G.Taghiyeva, G.Mustafayeva, E.Jabiyeva who had observed in the polling station # 1, S.Idrisova, I.Aghayeva, G.Ahmadova, G.Asgarova, S.Behbudova, M.Guliyeva who had observed in the polling station # 2, S.A.Bayramova, M.M.Aliyeva, N.K.Kerimli, I.G.Vahabova, G.R.Asgarova who had observed in the polling station # 4, E.M.Hatamov, A.H.Aliyeva, I.I.Mammadova, S.M.Heydarova, N.N.Mammadova who had observed in the polling station # 5, F.Humbatova, G.Hasanova, G.Alakbarova, S.Rzayeva, E.Kerimova, N.Kangarli who had observed in the polling station # 6, S.S.Mammadov, I.A.Heydarov, E.Kh.Yuzbashov, T.H.Abdullayev, G.V.Haziyev, T.M.Aliyev, R.V.Salayev, B.N.Neymatullayev, Z.A.Shukurov, Ch.Sh.Hasanov, V.A.Vahidov, N.R.Eyyubov who had observed in the polling station # 7, N.M.Mirgasimova, T.A.Azizova, M.M.Abdullayeva, L.V.Mammadbayova, K.A.Mammadova, S.A.Babayeva, A.S.Zeynalli, L.O.Alimardanova, R.E.Hasanova, S.S.Maharramova, F.S.Gunashova, I.R.Safiguliyev who had observed in the polling station # 8, A.V.Salahov, T.M.Kazimova, R.N.Zeynalova, R.A.Aghayev, Y.B.Suleymanov, R.H.Farajov, E.A.Mirzayev, V.Sh.Zeynalov, I.I.Jabrayilov, Sh.E.Najafova who had observed in the polling station # 9, V.M.Musayev, Sh.V.Musayeva, K.J.Zulfiyev, A.V.Salahov, V.Sh.Zeynalov, R.Z.Hashimov, V.Musayev, I.Safarov, F.S.Abbasov who had observed in the polling station # 10, F.Valiyeva,

A.Rahimova, Y.Aslanova, S.Abdullayev, E.Ibrahimov, P.Abbasov, S.Mammadov who had observed in the polling station # 11, M.A.Rahimova, J.N.Guliyeva, L.M.Abbasova, N.M.Guliyev, T.V.Yansevich who had observed in the polling station # 12, T.A.Aghayev, T.M.Khalilov, Sh.A.Samadova, I.A.Shahbazbayova, F.F.Hasanov who had observed in the polling station # 13, N.Mammadova, S.Mammadova, J.Jafarov, A.Mammadov, G.Aliyeva who had observed in the polling station # 14, R.Jafarov, E.Aliyev, I.Kerimov, G.Muradova, I.Afandiyev who had observed in the polling station # 15, J.Isgandarova, K.Bashirova, A.Abbasova, B.Mustafayeva, M.Valiyeva who had observed in the polling station # 16, M.Babayeva, R.Aliyev, G.Zeynalova, E.Mammadova, R.Hasanova, A.Guliyeva who had observed in the polling station # 17, A.T.Orujova, A.P.Tahirzadeh, S.K.Abdullayeva, S.Kh.Guliyeva, T.R.Shirinova who had observed in the polling station # 19, G.A.Aliyeva, S.R.Safarova, N.J.Allahverdiyeva, N.A.Rzayeva, E.Kh.Zulfugarov, M.A.Ahmadova, S.B.Abbasova, P.A.Azimova who had observed in the polling station # 20, I.Ahmadov, Z.Asgarov who had observed in the polling station # 21, Z.Mammadov, S.Hasanova, A.B.Ahmadov, Y.S.Baghirova, Sh.M.Yolchuyeva, L.A.Abiyeva, L.V.Mehdiyeva who had observed in the polling station # 22, Kh.Abdullayev, A.Sh.Samadzadeh, F.Ismayilov, N.Azimov who had observed in the polling station # 23, A.Agharafioghlu, S.Ahmadov who had observed in the polling station # 25, Kh.Abdullayev, E.Sh.Samadzadeh who had observed in the polling station # 27, P.V.Zeynalov, A.E.Hasanov, R.N.Suleymanov, F.B.Aliyev, F.S.Alakbarova who had observed in the polling station # 28, R.R.Hajiyev, F.F.Yusubov, F.S.Gurbanov, Z.I.Maharramov who had observed in the polling station # 30, R.Babayev, E.Gulmammadov, E.Musayev, E.Ismayilov, A.Gasimov who had observed in the polling station # 31 informed in their acts that any law violation was not allowed and the observation process was not interfered in, PEC chairman or members did not pressure upon them nor other observers, they observed the compilation of the voting results protocol and left the polling station after they had obtained the copy of the protocol.

It was determined through the investigation that M.G.Babayev, registered candidate on Nasimi-Sabail Con.EC # 23 had challenged the voting results on the polling stations # 20, 22 and 28, appealed to the commission on the annul of the voting results on those polling stations, it was decided to re-count the votes on the polling stations # 20, 22 and 28 by the Con.EC decision # 22/57, dated November 3, 2015, the votes were re-counted and as the results coincided with previous results, the protocols compiled on the re-counting of votes were approved. The Con.EC adopted a decision on November 2, 2015 to re-count the votes due to technical mistake in that protocol found out while examining the voting results protocol on the polling station # 27 and the results coincided with previous results during counting.

It was determined during the evaluation of the decision # 23/60 of Nasimi-Sabail Con.EC # 23, dated November 7, 2015 on not implementing the appeal of A.A.Gasimli that the appeal had been examined by the Con.EC within the period and manner defined by law and a relevant decision was submitted to the plaintiff in time. While investigating that appeal at the Con.EC, the reliability and possibility of the collected evidences were focused on and relevant measures were undertaken for their sources and methods of availability to comply with legal requirements. Thus, the evidences had been collected by the entitled persons and affidavits, information, acts, references and other materials of great importance for the case had been obtained in a manner defined by law.

Furthermore, the reference provided by the Con.EC shows that full and equal opportunities were formed to conduct pre-election campaign within that election

constituency and registered candidates on that election constituency held free meetings with voters within different time periods. This case was also justified by the affidavits of M.G.Babayev and A.B.Valiyeva. Meanwhile, the Con.EChad not received any appeal on the violation of the rights to conduct pre-election campaign. During the investigation A.A.Gasimli informed that he did not own any document, material or evidence on the violation of the rights to conduct pre-election campaign.

So, as the claims on the law violations supposed to have been committed in many polling stations of Nasimi-Sabail Con.EC # 23 were not justified and the cases that impinged to determine voters' will during the conduct of voting or defining voters' will on that Con.EC were not revealed, the appeal # 181 of registered candidate to deputy A.A.Gasimli, dated November 14, 2015 shall not be implemented and the decision # 23/60 of the Con.EC, dated November 7, 2015 shall be remained as enforced.

Taking the above mentioned as a basis, pursuant to Articles 19.4, 28.2, 112 and 112-1 of Election Code of the Republic of Azerbaijan and item # 1, 2, 4, 6 and 7 of the "Instruction on the rules for submission and investigation of the appeals and complaints filed to the Central Election Commission of the Republic of Azerbaijan and Constituency Election Commissions", the Central Election Commission **decides**:

1. The appeal # 181 of Gasimli Azer Aghagasim, registered candidate Nasimi-Sabail Con.EC # 23, dated November 14, 2015 shall not be implemented due to groundlessness and the Con.EC decision # 23/60, dated November 7, 2015 shall be remained enforced without any changes.
2. The decision shall be enforced upon its publication.

CEC Chairman

Mazahir Panahov

CEC Secretary

Arifa Mukhtarova

CEC Secretary

Mikayil Rahimov

