

DECISION

of Central Election Commission of the Republic of Azerbaijan
on consideration of the appeal # 71 submitted to the Central Election Commission on
January 9, 2020 in the Municipal Elections on December 23, 2019

Regarding the Municipal Elections on December 23, 2019, Rabiyyallgar Mammadova, registered candidate to Binagadi settlement municipality of Binagadi third Con.EC # 10 appealed to the Central Election Commission of the Republic of Azerbaijan (CEC) on January 9, 2020 and arguing the decision # 40/100, dated 29 December 2019 of Binagadi third Con.EC # 10, requested to re-count the votes and annul the results on the PECs # 1, 2, 3, 4, 5, 6, 7, 8, 9 and 35 of that Con.EC, to undertake relevant measures regarding the persons who have committed law violations.

The appeal was adopted to investigation in accordance with Articles 112 and 112-1 of the Election Code of the Republic of Azerbaijan (Election Code) and "Instruction on the rules for filing appeals and complaints to the Central Election Commission and Constituency Election Commissions of the Republic of Azerbaijan and their consideration" and relevant opinion was provided on this issue by a member of the Expert Group under CEC and considered at the Commission session.

In her appeal registered candidate to municipality R.I. Mammadova stated that though voter turnout was low on the voting day, it was raised artificially by means of ballot box stuffing in favor of the candidates agreed with the PEC chairmen, taking a group of people to the polling station, voting in several polling stations and generally, voting in the election constituency or polling station where they did not belong at all, the observers were not able to observe the voting process fully and obviously from the spared distance, the number of the ballot papers found inside the ballot box did not coincide with the number of observers' counting, the video recording was obstructed in the PECs # 8 and 35, the chairman of the PEC # 35 refused to count the votes and the ballot box was taken away by car and the acts submitted to the Con.EC were not investigated. The plaintiff added an electronic data carrier to her appeal.

During the investigation process R.I. Mammadova was contacted with, informed on her rights to take part at the investigation and session, although she informed that as she was busy with dealing the preparation of the election documents, would not be able to come to take part at the investigation, but would come to the Commission session, the plaintiff did not come to the session.

The Con.EC substantiated its decision basing on that registered candidate R.I. Mammadova did not agree with the voting results on the PECs # 1, 2, 3, 4, 5, 6, 7, 8, 9 and 35 within the Con.EC, informed on the law violations in those polling stations, therefore required to annul the results, thereby stating that the ballot boxes were not transparent and the voters' number was not declared loudly, claimed that could not observe well the inking process and casting ballot into the ballot box, the number of the stamp of the ballot box was not clearly read in the PEC # 7, webcam was not installed in the PEC # 9 and video recording was obstructed. The acts submitted to the Con.EC did not contain any fact on the claimed law violations, on the voting day and the proceeding day the plaintiff or other persons did not file written or verbal complaint to the commission on the claimed law violations in the voting and tabulation processes in those polling stations, the PEC voting results protocols were compiled in accordance with the Election Code and delivered to the Con.EC within timeframe and manner defined by law.

During the investigation it was determined that registered candidate R.I.Mammadova did not appoint an authorized representative, observer or agent to support her interests and implement other election actions in the Municipal Elections and the violations claimed to have been committed in the polling stations were not observed by the candidate herself or stakeholders representing her interests. During the investigation the plaintiff admitted the mentioned case and informed that she based her claims on the acts compiled by only other observers, which did not cover any legal consequence.

Regarding the investigation, the reports provided by the chairmen, secretaries and members of the PECs # 1, 2, 3, 4, 5, 6, 7, 8, 9 and 35 indicated that on the voting day R.I.Mammadova visited those polling stations for a short period after the voting commenced up to the ending, also in the tabulation process. So that, she was at the PEC # 1 at 9:50, the PEC # 2 at 10:00-10:20, PEC # 3 at 10:25-10:32, PEC # 4 at 11:15- 11:25; 13:44-13:50 and 18:22-18:24, PEC # 5 at 13:55-14:10 and 16:30- 16:40, PEC # 6 at 10:40-10:53; 14:45-14:52, PEC # 7 at 08:50-08:55; 13:22-13:29 and 17:32-17:40, PEC # 8 at 09:05-09:10; 13:35- 13:40 and 17:52-18:10, PEC # 9 at 09-09:22; 12:20-13:00, PECs # 9 and 35 at 15:20-15:35 and left the PEC # 9 after a while when she has voted and did not request the PEC voting results protocol.

It is necessary to note that the observers whose names have been indicated in the acts submitted by R.I.Mammadova did not appeal to the PECs or Con.ECs, or to Central Election Commission in written or verbal form regarding the law violations claimed to have been committed in the contested polling stations on the voting day and proceeding period. .

Furthermore, the webcams on the PECs # 3, 6 and 8 within that election constituency was reviewed and not any violation was found out.

It was determined through the documents submitted by the Con.EC for the investigation of the appeal by R.I.Mammadova that in their reports, B.A.Hajimammadov, A.A.Gasimov, J.K.Mustafayev, R.K.Mamishov, E.A.Taghiyev, S.P.Hasanov, Z.A.Aslanov and A.R.Mursalov, persons who observed on the voting day in the argued polling stations and registered candidates who have not been elected to municipality membership informed that they had not been encountered with any law violation which could affect the voting results during the observation held by themselves or their observers during the voting and vote counting processes in the PECs # 1, 2, 3, 4, 5, 6, 7, 8, 9 and 35 of that Con.EC. According to the reports provided by the PEC members and registered candidates, 97 election stakeholders who observed the voting and vote counting, representing different political parties and conducted observation on own initiatives, the violations claimed to have been committed were not justified.

An electronic data carrier added to the appeal of plaintiff was reviewed and it was disclosed that those views showed the voters being asked the questions about their voting outside the polling station, which had been also broadcasted on the social networks on the voting day.

Basing on these, due to the lack of legal grounds to implement the complaint and to annul the Con.EC decision # 40/100, dated 29 December 2019, the appeal shall not be implemented due to groundlessness and that decision of the Con.EC shall be remained enforced without making amendments.

Basing on the above-mentioned and pursuant to 19.4, 28.2, 112, 112-1 of Election Code of the Republic of Azerbaijan and items 1, 2, 4, 6, 7 and 8 of the "Instruction on

the rules for filing appeals and complaints to the Central Election Commission and Constituency Election Commissions of the Republic of Azerbaijan and their consideration" the Central Election Commission **decides:**

1. The appeal # 71, dated January 9, 2020 by RabiyyalgarMammadova, registered candidate to Binagadi settlement municipality of Binagadi third Con.EC # 10 in the Municipal Elections on December 23, 2019 shall not be implemented due to groundlessness and the Con.EC decision # 40/100, dated 29 December 2019 shall be remained enforced without making amendments.
2. The decision shall be enforced upon its publication.

CEC Chairman

MazahirPanahov

CEC Secretary

ArifaMukhtarova

CEC Secretary

MikayilRahimov