

OPINION

of Rafiq Abbasov, member of Expert Group under CEC to investigate the complaints against actions (inactions) and decisions violating citizens' election rights in the Municipal Elections on December 23, 2014

on the appeal 10 submitted to CEC on November 24, 2014 by Farrukh Jabrayil Guliyev, nominee to the municipality membership of Lankaran-Astara Con.EC # 76 on his own initiative

Baku

26 November 2014

Having investigated the appeal 10 submitted to CEC on November 24, 2014 by Farrukh Jabrayil Guliyev, nominee to the municipality membership of Lankaran-Astara Con.EC # 76 on his own initiative in the Municipal elections on December 23, 2014, as a member of Expert Group, I have determined that:

Since the appeal had been submitted in comply with the Election Code of the Republic of Azerbaijan and the Instruction "On the rules for submission and processing of appeals and complaints on the violation of election rights to the Central Election Commission and Constituency Election Commissions of the Republic of Azerbaijan" and within the specified time period for submitting a complaint, it was accepted for implementation.

Farrukh Jabrayil Guliyev, nominee on Mamusta municipality of Lankaran-Astara Con.EC # 76 on his own initiative appealed to CEC in written form on November 24, 2014 regarding the Municipal elections on December 23, 2014 and informed that the Con.EC decision on the refusal from registering his candidacy had been groundless and therefore, requested to undertake relevant measures defined by law.

The appeal was adopted for the implementation by me in comply with Articles 112 and 112-1 of the Election Code of the Republic of Azerbaijan 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 basing on the principle of ensuring citizens' election rights, it was investigated in a legal manner.

By justifying his complaint, citizen F.J.Guliyev informed that he had nominated his candidacy on his own initiative on Mamusta municipality of Lankaran-Astara Con.EC # 76 in Municipal elections on December 23, 2014, submitted signature sheets and other necessary documents attached to them to the Con.EC as implied by article 58.1 of the Election Code upon the collection of voters' signatures within that municipality, but his candidacy was refused from registration by the Con.EC # 11/30-2 dated November 20, 2014 without any reason.

By justifying its decision on the refusal from registering the candidacy of F.J.Guliyev, the Con.EC informed that 25 out of 50 signatures included in the submitted signature sheet were considered invalid.

During the investigation process the documents which have led to the adoption of the argued decision by the Con.EC and submitted for the candidate registration were requested to be sent by the Con.EC to the Working Group under CEC for opinion

providing upon the conduct of relevant investigation. The opinions and protocol dated November 24, 2014, compiled as a result of examining the documents necessary for the candidate registration by the Working Group revealed that voters' signatures included in the signature sheet submitted for the registration of F.J.Guliyev had been collected in comply with the Election Code. 50 voters' signatures collected by the nominee were considered valid. Since the number of the valid signatures was sufficient for the registration of the candidacy on that municipality and other documents on the candidate had been compiled in accordance with the Election Code, legal grounds were found to register his candidacy.

So, pursuant to Article 215.1.5 of the Election Code, every nominated citizen shall collect 30 valid voters' signatures to be registered to the municipality membership within a territory with more than 4.999 population number. It is justified by a reference of the relevant executive authority that the population number within the territory covered by Mamusta municipality is within the limits as defined by the above-mentioned Article of the Election Code.

Article 60.2 of the Election Code defines the grounds for the refusal from registering the candidacy. While adopting a decision on the refusal from registering the complainer's candidacy, the Con.EC had not taken into consideration the requirements of that article.

So, through a full, comprehensive, fair and impartial investigation not any legal ground was found to annul the argued decision of the Con.EC and to implement the complaint.

According to the above-mentioned, the complaint shall be implemented due to its grounded factors, the decision # 11/30-2 of Lankaran-Astara Con.EC # 76, dated November 20, 2014 on the refusal from registering the candidacy of F.J.Guliyev on Mamusta municipality shall be annulled and his candidacy to the municipality membership on that election constituency shall be registered.

Pursuant to Articles 112, 112-1 of the Election Code of the Republic of Azerbaijan and items # 1-8 of "On the rules for submission and processing of appeals and complaints on the violation of election rights to the Central Election Commission and Constituency Election Commissions of the Republic of Azerbaijan", **I have determined:**

1. The complaint # 10, dated November 24, 2014 by Farrukh Jabrayil Guliyev, nominated on Mamusta municipality of Lankaran-Astara Con.EC # 76 on his own initiative shall be implemented and the Con.EC decision # 11/30-2 dated November 20, 2014 on the refusal from registering his candidacy shall be annulled.
2. The candidacy of Farrukh Jabrayil Guliyev, nominated on Mamusta municipality of Lankaran-Astara Con.EC # 76 on his own initiative shall be registered to municipality membership.
3. The opinion shall be published no later than 18 hours upon its adoption (shall be posted on the website) and its copy shall be sent to the applicant.

Expert Group member

Rafiq Abbasov