

OPINION

of Gabil Orujov, 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 04 submitted to CEC on November 22, 2014

Baku

23 November 2014

Having investigated the appeal # 05 submitted to CEC on November 22, 2014 by Islam Aghakerim Gafarov, nominee on Sarchuvar municipality of Lankaran-Masalli Con.EC # 75 on his own initiative in the Municipal elections on December 23, 2014 regarding the annul of the Con.EC decision on the refusal from registering his candidacy and adoption of a relevant decision on the registration of his candidacy, as a member of Expert Group, I have determined that:

Since the appeal had been submitted in comply with Articles 112 and 112-1 of 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" approved by the CEC decision # 11/53-2 dated August 12, 2008 (amended by decisions # 15/58-6 dated July 23, 2010 and # 5/16 dated October 19, 2012), it was accepted for implementation and relevant investigation was held on this.

By justifying his complaint, the complainant informed that he had nominated his candidacy on his own initiative on Sarchuvar municipality of Lankaran-Masalli Con.EC # 75 in Municipal elections on December 23, 2014, submitted signature sheets and other necessary documents attached to them to the Con.EC upon the collection of voters' signatures within that municipality, but his candidacy was refused from registration by the Con.EC decision # 17/42 dated November 15, 2014 without any reason.

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.

By justifying its decision on the refusal from registering the candidacy of Islam Aghakerim Gafarov, the Con.EC informed that he had not included full information on the candidate in the signature sheet and only 13 out of 22 signatures included in the signature sheet were considered valid. Therefore, as the number of other signatures included in the signature sheet submitted by the candidate was not sufficient for the candidate's registration, his candidacy was refused to be registered.

The applicant was informed by me on the investigation, also noted on his right of presenting additional evidences and documents on the complaint and invited to take part in the investigation. He informed that the Con.EC had behaved unfairly deliberately, considered the legally collected signatures invalid and due to this reason, the Con.EC decision is groundless.

So, through a full, comprehensive, fair and impartial investigation legal grounds were determined to annul the argued decision of the Con.EC and to implement the complaint.

The opinion and protocol dated November 23, 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 by Islam Aghakerim Gafarov for the candidacy registration had been collected in comply with the Election Code. All of 22 voters' signatures collected by the candidate were considered valid. Since the number of the valid signatures was sufficient for the registration of the candidacy on that municipality and other necessary documents had been compiled in accordance with the Election Code, there were legal grounds to register his candidacy. So, pursuant to Article 215.1.6 of the Election Code, every nominated citizen shall collect 15 valid voters' signatures to be registered to the municipality membership within a territory with less 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 Sarchuvar municipality is 2515 people and the number is within the limits as defined by the above-mentioned Article of the Election Code.

Pursuant to Article 57.4 of the Election Code of the Republic of Azerbaijan, a voter shall include their surname, name, patronymic, date of birth, address of residence, serial number of ID card or its substitute document, date of issue and date of signature while signing the signature sheet. The information necessary for inclusion on the signing voters could be entered the signature sheet by the person collecting signatures. The indicated information shall be handwriting and guaranteed to not be disseminated.

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.

According to the above-mentioned, the complaint shall be implemented due to its grounded factors, the decision # 17/42 of Lankaran-Masalli Con.EC # 75, dated November 15, 2014 on the refusal from registering the candidacy of Islam Aghakerim Gafarov on Sarchuvar municipality shall be annulled and his candidacy to the municipality membership on that election constituency shall be registered.

By assuming the above-mentioned as a basis and pursuant to Articles 59, 60, 112, 112-1, 215.1.5, 216.1 of the Election Code of the Republic of Azerbaijan and items # 1, 2, 4, 6 and 7 of "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", CEC **decides:**

1. The complaint # 04, dated November 22, 2014 by Islam Aghakerim Gafarov on nominated on Sarchuvar municipality of Lankaran-Masalli Con.EC # 75 on his own initiative shall be implemented and the Con.EC decision # 17/42 dated November 15, 2014 on the refusal from registering his candidacy shall be annulled.
2. The candidacy of Islam Aghakerim Gafarov, nominee on Sarchuvar municipality of Lankaran-Masalli Con.EC # 75 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

Gabil Orujov