

DECISION

of Central Election Commission of the Republic of Azerbaijan on consideration of the appeal # 19 submitted to the Central Election Commission on January 15, 2020 in the Elections to the MilliMajlis of the Republic of Azerbaijan on February 9, 2020

In the written apply addressed to the Central Election Commission on January 15, 2020, AynuraAjdarKhudiyeva, self-nominee to deputy onTartar Con.EC # 95 in the Elections to the MilliMajlis of the Republic of Azerbaijan on February 9, 2020 challenged the Con.EC decision # 5/21, dated 13 January, 2020 on refusal to register her candidacy and requested for the redress of her violated rights upon annulling that decision.

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.

In the appeal nominee A.A.Khudiyeva informed that on January 9, 2020 she appealed to the Con.EC on her nomination in the Elections to the MilliMajlis of the Republic of Azerbaijan on February 9, 2020, submitted relevant documents and was provided with a notification upon receiving her documents.

She informed that her nomination was verified and provided with signature sheets at the Con.EC session on January 10, 2020, she and her representatives collected 500 (five hundred) signatures within the territory of the election constituency till 18:00 on the same day, though she visited the Con.EC at 19:00 to submit signature sheets, there was no one there. On the next day – on January 11 at 11:00 she submitted signature sheets and other election documents for the registration of candidacy to the Con.EC.

Basing on her unawareness of to what time to submit signature sheets and to what time of the day the signature sheets would be received at the Con.EC, she visited the Con.EC on the next day being late for valid reason and she reckoned that voters' signatures included in the signature sheets submitted and other election documents had been collected and submitted as in comply with the Election Code, thereby forming a legal ground to register her candidacy. But she claimed that the Con.EC had adopted a groundless decision violating her rights without taking the above-mentioned into account, meanwhile neglecting her physical disability and collection of 500 signatures in seven hours, therefore requested to annul that decision.

The applicant was contacted in connection with the investigation, was informed on her rights to participate in the investigation and the session, her participation was ensured at the session. The relevant election documents were required from the Con.EC and investigated thoroughly.

The Con.EC substantiated the decision on the refusal from registering the candidacy of A.A.Khudiyeva on the grounds that she nominated her candidacy applying to the Con.EC on January 9, 2020.

The submitted by A.A.Khudiyevawere receivedby the Con.EC on the same day and she was provided with the approved copy of the notification. Her candidacy was approved at the Con.EC session, dated 10 January, 2020, submitted signature sheets and clarified the following steps to put for. A.A.Khudiyeva visited the Con.EC at 10:30 on January 10 and informed that she had opened a specific election account. The Commission explained A.A.Khudiyeva the requirements of article 91.1 of the Election Code and also she was informed that she could start the collection of signatures within 24 hours after opening election account. Otherwise, it would be contrary to the legal requirements.

Although candidate A.A.Khudiyeva had to submit the signature sheets containing voters' signatures in support of her candidacy and other election documents to the Con.EC at least within 30 days prior to the voting day, i.e. till 18:00 on January 10, 2020 as in comply with article 58.1 of the Election Code, she did not submit the relevant documents within the required timeframe. On the next day – on January 11, 2020 at 11:00 she came to the Con.EC to submit signature sheets and other election documents. She was informed on the missed deadline of submitting documents and the documents were received by the Con.EC upon compiling an act on that with the participation of herself and commission members. The copy of the act on not submitting the documents within the deadline was provided to A.A.Khudiyeva. Considering the above-mentioned and pursuant to Articles 58.1 and 91.1 of the Election Code, the registration of the candidacy of A.A.Khudiyeva was regarded impossible.

It was determined through the investigation that although the Con.EC had applied the legal norm on missing the deadline for submitting signature sheets to register the candidacy while adopting the decision, it did not arrive at proper legal conclusion. So that, pursuant to the item # 2.3 of the “Instruction on the rules for collection of voters' signatures in support of a candidate to deputy and their submission to the Constituency Election Commissions during the Elections to the MilliMajlis of the Republic of Azerbaijan”, the Con.EC shall receive the signature sheets within the timeframe indicated in the Election Code – from 09:00 till 18:00. The signature sheets submitted after the deadline defined in the legislation do not form the same legal consequences with the signature sheets submitted in the timeframe defined in the law. The Con.EC shall record the case officially by its decision. Therefore, the Con.EC shall not consider the issue on the registration of A.A.Khudiyeva's candidacy, but should have made t official by the decision. Obviously, the Con.EC violated the Election Code and relevant Instruction by considering the registration of the candidacy.

Thus, as the Con.EC decision had been groundless and contrary to law, legal grounds have been established to implement the appeal of A.A.Khudiyeva partly in the part on the annul of that decision, to annul the foregoing decision of the Con.EC and to instruct to abide by the provisions implied in the election legislation by the Con.EC regarding the signature sheets submitted after the timeframe defined in legislation.

Pursuant to Article 112.9 of the Election Code, superior election commission shall have the right to annul the decision of lower election commission, to adopt a decision on the substance of the issue and to instruct to re-consider the issue.

Taking the above mentioned as a basis, pursuant to Articles 19.4, 28.2, 58, 112, 112-1 of Election Code of the Republic of Azerbaijan and items # 1,2,4,6 and 7 of the “Instruction on the rules for collection of voters’ signatures in support of a candidate to deputy and their submission to the Constituency Election Commissions during the Elections to the MilliMajlis of the Republic of Azerbaijan”, the Central Election Commission decides:

1. The appeal # 19 submitted on January 15, 2020 by AynuraAjdarKhudiyeva, self-nominee to deputy on Tartar Con.EC # 95 in the Elections to the MilliMajlis of the Republic of Azerbaijan on February 9, 2020 shall be partly implemented.
2. The decision # 5/21 of Tartar Con.EC # 95, dated 13 January 2020 shall be annulled due to groundlessness and that Con.EC shall undertake relevant measures in comply with the provisions in election legislation regarding the signature sheets submitted after the deadline implied in the legislation.
3. The decision shall be enforced upon its publication.

CEC Chairman

MazahirPanahov

CEC Secretary

ArifaMukhtarova

CEC Secretary

MikayilRahimov