

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Before:
 Ahmed Ali M. Shaikh, CJ
 Yousuf Ali Sayeed, J

CP No.D-3272 of 2021

Fresh Case

1. For orders on office objection No.01
2. For orders on Misc. No.13901/2021 (exemption)
3. For hearing of main case.

23.08.2021.

Mr. Abdullah Azam Naqvi, Advocate for petitioner.

AHMED ALI M. SHAIKH, CJ.- Through instant petition, petitioner Muhammad Siddique seeks following relief(s):

- (a) Declare that Petitioner is a lawful citizen of the Islamic Republic of Pakistan and therefore, pursuant to section 10 of the Ordinance he is entitled to be issued and retain in his possession a CNIC;
- (b) Declare that Respondents' actions, including but not limited to their refusal to comply with the Order dated 2.3.2021, passed in the Earlier Petition is illegal, malafide and in excess of their authority;
- (c) Declare that Respondents' actions, including but not limited to their refusal to issue Petitioner a CNIC are illegal, malafide and in excess of their authority;
- (d) Direct the Respondents to immediately make compliance of the Order 2.3.2021, passed by this Honourable Court in the Earlier Petition filed by the Petitioner before this Honourable Court;
- (e) Direct the Respondents to immediately process Petitioner's application and therefore issue him a CNIC under section 10 of the Ordinance and ensure that his details are updated on the National Database being maintained by Respondent No.2;
- (f) Grant any other relief as this Honourable Court may deem fit and appropriate.

Learned counsel urged with vehemence that petitioner is by birth a Pakistani Citizen and under the relevant law, on 12.02.1991, he was issued a national identity card bearing No.506-61-440676 but the same was subsequently lost and in this regard he lodged a report with the concerned police station. According to him, earlier, CP No.D-6647 of 2020 was disposed of by this Court vide order dated 02.03.2021 on the basis of the statement of even date filed by the Law Officer, RHO NADRA, Karachi, stipulating that petitioner has been cleared vide RHO NADRA Minute Sheet dated 05.12.2020 and he may re-apply for issuance of CNIC. He

submitted that the petitioner, pursuant to this Court's order and the statement filed on behalf of the NADRA, appeared before the official respondents but they have yet again initiated a fresh verification process regarding genuineness or otherwise of petitioner's claim. Therefore, finding no alternate remedy he approached this Court with fresh Petition for redressal of his grievance. When counsel was asked that in presence of order dated 02.03.2021 passed in his earlier Petition seeking identical relief as herein, how this Petition is maintainable he replied that there is no such bar and this Court can pass appropriate orders to allay the petitioner's grievance. He went on to say that petitioner has invoked the Constitutional Jurisdiction of this Court to get enforced his fundamental rights as being a Pakistani Citizen he is very much entitled to issuance of a computerized national identity card.

We have heard the learned counsel for the petitioner, considered the contentions advanced by him and scanned the record, including the memo of earlier Petition No.D-6647 of 2020 and the order dated 02.03.2021 passed by this Court. The said order is reproduced hereunder:-

“Learned counsel for NADRA has submitted a statement that according to their record petitioner's case has been cleared by V&R Branch vide Minute Sheet No.RHO/KHI/V&R/Rev(20)/MSN-15 dated 05.12.2020, however, the petitioner has to re-apply for the issuance of CNIC. The petitioner's counsel has received the reply and accepted this proposal.

2. The learned counsel for NADRA submits that the petitioner may be directed to appear before the NADRA Mega Centre, Near Siemens Chowrangi, SITE Area, Karachi. The petitioner is directed to appear before NADRA Mega Centre, Near Siemens Chowrangi, SITE Area, Karachi alongwith all supporting documents. The exercise shall be completed within 30 days. The petition is disposed of.

Copy of this order shall be transmitted to learned Counsel for NADRA for compliance.”

Perusal of the above order reveals that petitioner was directed to appear before the NADRA Mega Centre, Near Siemens Chowrangi, SITE Area, Karachi alongwith all supporting documents and the said exercise was to be completed within 30 days. Besides, if earlier directions issued by this Court are not complied with fresh petition seeking identical relief between the same parties cannot be entertained in view of the rule of Res Judicata envisaged in Section 11 CPC, which debars a court from exercising its jurisdiction to determine a lis that has already attained finality. Moreover, explanation V provides that any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

In view of above, instant petition alongwith pending application stands disposed of leaving the petitioner at liberty to avail remedy provided under the law, if so advised.

Chief Justice

Judge