

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-8285 of 2018

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Arshad Hussain Khan

Sindh Small Industries Corporation.....Petitioner

Versus

The Provincial Ombudsman
(Mohtasib) Sindh & another.....Respondents

20.10.2020

Mr. Syed Ahmed, Advocates for the Petitioner.
Mr. M. Tariq, Advocate for Respondent No.2.
Mr. Kafil Ahmed Abbasi, D.A.G.
Mr. Sheheryar Mehar, A.A.G.

Muhammad Ali Mazhar, J: The petitioner has approached this court for the declaration that the decision of the respondent No.1 (Provincial Ombudsman (Mohtasib) Sindh) is without lawful authority. The impugned order is available at page 11 and the concluding paragraph 5 is reproduced as under:

“DECISION

5. In view of the above and in exercise of powers vested in me under Section 11 of the Establishment of the Office of the Ombudsman for the Province of Sindh Act, 1991, I hereby direct the Managing Director, Sindh Small Industries Corporation, to include the Plot No.E-06, in the Layout Plan after completion of all the procedural formalities and withdraw letter No.SSIC/SR/E&I/227/30 dated 04.08.2015 and restore allotment in favour of the complainant, Mr. Kamran Ali Rajput.”

2. The learned A.A.G. has raised the objection that under Article 32 of the Establishment of the Office of the Ombudsman for the Province of Sindh Act, 1991, any person aggrieved by a decision or order of the Ombudsman has a right to make a representation within thirty days of the decision or order to the Governor but in this case no such representation has been filed. The learned counsel for the petitioner though admits that no representation has been filed as provided under the law but he has referred to uncertified copy of a statement dated

18.01.2017 available at page 29 allegedly filed by respondent No.1 in C.P. No.D-3161/2015 pending before the Sukkur Bench of this court at Sukkur in which the petitioner (respondent No.1) shown his intention to avail the remedy by filing the civil suit before the competent court of law, therefore, learned counsel for the petitioner argued that in view of this statement the respondent No.2 should have availed the remedy by filing a civil suit rather than filing a complaint to the Ombudsman. Be that as it may, the proper remedy of representation is already provided under the Establishment of the Office of the Ombudsman for the Province of Sindh Act, 1991, under Article 32 and in our considerate view there was no justification not to avail a remedy of representation merely for the reason that some statement was given by the respondent No.1 in some constitution petition at Sukkur Bench of this court. If there was any such statement, that could have been produced before the Ombudsman as well as this plea could also have been taken before the Governor while filing representation under Article 32. At this juncture, the counsel for the petitioner submits that he will file representation before the Governor and requests that the time consumed in these proceedings may be condoned in filing representation which was to be filed within thirty days. We cannot extend the limitation nor condone the limitation at this stage for filing the representation, however, if the petitioner wants to file representation, they may apply condonation on all available grounds for decision of competent authority. The petition is dismissed alongwith pending application.

Judge

Judge

Asif

