

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-3943 / 2011

(Muhammad Akhlaque Baig Vs. Province of Sindh & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 24.09.2026.

Mr. Masroor Ahmed, Advocate for the Petitioner.
Mr. Ali Safdar Depar, Assistant Advocate General, Sindh.
Mr. Mukesh Kumar, Advocate for the Respondent.

Adnan-ul-Karim Memon, J. Petitioner Muhammad Akhlaque Baig has filed this Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan seeking the following reliefs: -

- “A. Declare that the Impugned Notification is without lawful authority and of no legal effect; consequently, set aside the same
- B. Permanently restrain the respondents from tampering with the revenue record pertaining to the petitioner and his other kins;
- C. Hold and declare that the acts of the respondents are illegal, without jurisdiction and void abinitio;
- D. Direct the Respondent Nos. 1 to 3 to immediately commence the investigation and suspend both the respondent No. 4 and Mr. Mushtaque Khaskheli;
- E. Grant a permanent injunction, prohibiting and restraining the respondents by themselves and/or through any or all of their agents, servants, officers, representatives, subordinate agencies and instrumentalities from tampering and/or forging with the revenue record of the petitioner lands;”

2. The Petitioner, Muhammad Akhlaque Baig, filed this Constitutional Petition under Article 199 of the Constitution, challenging the reinstatement of Respondent No.4, Shankar Lal, formerly Mukhtiarkar Taluka Mehrabpur, after his compulsory retirement on allegations of forgery and manipulation of revenue records, and his subsequent posting in the same Taluka. The Petitioner claimed ownership of ancestral land measuring about 370/400 acres in Deh Pir Watio, Taluka Mehrabpur, and alleged that Respondent No.4, in collusion with Tapedar Mushtaque Ali Khaskheli, had tampered with revenue entries Nos.264, 1082, 565, 31 and 32 and unlawfully transferred the land in favour of third parties. Upon an application dated 09.08.2011, an inquiry was conducted by the revenue authorities,

and the DDO (Revenue) reported the alleged forgery and recommended cancellation of the disputed entries. Consequently, the D.O. (Revenue) cancelled the said entries vide order dated 24.08.2011, while the Senior Member, Board of Revenue, directed suo motu proceedings. The Petitioner further alleged that Respondent No.4 had initially been awarded the major penalty of compulsory retirement, while Mushtaque Ali Khaskheli was suspended, but both were subsequently reinstated/relieved from suspension, and Respondent No.4 was posted in the same Taluka. The Petitioner apprehended further tampering with the revenue record and sought setting aside of the reinstatement/posting orders, protection of his property and revenue record, and appropriate disciplinary/investigative action.

3. In their comments, Respondents No.2 and 3 stated that although an inquiry had established irregularities against Respondent No.4 and he was awarded compulsory retirement vide order dated 30.07.2011, he and other officers were subsequently exonerated from the major penalty in service appeal vide order dated 26.10.2011, with directions for a fresh inquiry, which was thereafter initiated. They further stated that Respondent No.4 was presently posted at Taluka Moro, District Naushahro Feroze, and not at Mehrabpur, while the disputed revenue entries were already subject to proceedings before the competent revenue authorities and civil courts.

4. The learned counsel for the private respondent raised the question of maintainability of the petition on the premise that private respondent retired from service as such this petition is not maintainable against retired person.

5. We have been informed that the private respondent has retired from service; hence, the petition has become infructuous. Confronted with the settled position that a writ of quo warranto cannot be issued against a retired civil servant, learned counsel contended that such writ could still be issued on the ground that the respondent had committed fraud against the petitioner.

6. In view of the fact that Respondent No.4 had retired from service, the challenge to his reinstatement and posting had become infructuous, as no effective relief could be granted against a retired civil servant. The contention that a writ of quo warranto could nevertheless be issued on the allegation of fraud was not legally sustainable, since such writ is directed against a person unlawfully holding a public office and cannot ordinarily be issued once the incumbent has ceased to hold such office. Moreover, the allegations regarding manipulation of revenue entries were already subject to proceedings before the competent revenue authorities and civil courts and, therefore, could not furnish a basis for continuing the present constitutional proceedings against a retired officer.

7. Consequently, no effective or enforceable relief remained available under Article 199 of the Constitution, and the petition is accordingly disposed of as having become infructuous.

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