

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
C.P Nos.D-3750 & 3751 of 2013

DATE: ORDER WITH SIGNATURE(S) OF JUDGE(S).

Present

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Adnan-ul-Karim Memon

C.P. No.D-3750/2013

Airport Hotel Sky Rooms (Pvt.) Ltd Petitioner

V E R S U S

National Industrial Relations Commissions
and others Respondents

C.P. No.D-3751/2013

Airport Hotel Sky Rooms (Pvt.) Ltd Petitioner

V E R S U S

National Industrial Relations Commissions
and another Respondents

Date of hearing 16.12.2016

Syed Ashfaq Hussain Rizvi, Advocate for petitioners.
Ch. Muhammad Latif Sagar, Advocate for private Respondents.

Muhammad Ali Mazhar-J. The petitioners through aforesaid petitions have challenged the interim orders passed by the Member NIRC, Karachi Bench in favour of the private Respondents and the members of the Airport Hotel Peoples Unity Workers Union. The impugned order in C.P No.D-3750/2013 is available at page-47 while the impugned order in C.P No.D-3751/2013 is available at page-209.

2. Learned counsel for the petitioner argued that according to his understanding of law, the Airport Hotel is not a trans-provincial establishment, therefore, the NIRC has no jurisdiction to entertain any case against the said establishment in the NIRC. He further

argued that against the said orders, the appeals were filed before the Full Bench of NIRC but, through an administrative order, the Registrar has returned back the memo of appeals vide communication dated 19th November, 2014 on the ground that the NIRC has no jurisdiction to entertain intra-provincial cases.

3. On the contrary, learned counsel for the private Respondents argued that during pendency of these petitions, the impugned orders passed by the NIRC, Karachi Bench have already been confirmed and the matter is pending for recording of evidence. So far as the return of memo of appeal by the Registrar is concerned, learned counsel argued that first of all they have no such information regarding return of appeal. Secondly he argued that this is not a judicial order and in order to reach proper conclusion as to whether the petitioner is trans-provincial establishment or not, evidence is required to be placed before the Single Member, NIRC, Karachi Bench. He further referred to the Order dated 13th February, 2015 which shows that the management had filed an application for abatement/rejection of the petition but the Member, NIRC Karachi Bench himself observed that no doubt the Registrar of NIRC has returned the appeal but it could not be treated to be a judicial order. Secondly he has observed that such point can be determined after recording evidence in the matter.

4. At this juncture, learned counsel for the petitioners submits that since 2011 the matter is pending before NIRC, Karachi Bench but the evidence has not been concluded. He requests that some directions may be issued to expedite the proceedings.

5. As a result of above discussions, we are of the firm view that when the matter is already at evidence stage and the crucial point in the matter is whether the NIRC has the jurisdiction or not and

whether the petitioner is trans-provincial establishment or not, this requires evidence where the petitioner has to demonstrate through some cogent evidence to prove their contention. Both the above petitions are disposed of alongwith pending applications with directions to the learned NIRC Karachi Bench to decide the pending cases filed by the private respondents preferably within three months and the petitioner is at liberty to raise question of trans-provincial establishment which is a basic condition for the application of IRA, 2012 before the Karachi Bench NIRC.

JUDGE

JUDGE

AyazGul