

**ORDER SHEET
HIGH COURT OF SINDH, KARACHI**

C.P. No.D-653 of 2019

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Agha Faisal.

Najma Altaf AhmedPetitioner

Versus

Federation of PakistanRespondent

Date of hearing 10.04.2019

Mr. Rehan Kiyani advocate for the petitioner.

Muhammad Ali Mazhar, J: Learned counsel for the petitioner argued that the petitioner is proprietor of production house “FARS Entertainment”. The petitioner started working on a project to demonstrate natural beauty of Pakistan for tourist point of view and in this regard the proposal for a future film child force was communicated to the respondent. The Minister at that relevant time expressed desire to promote, sponsor and market the same. The petitioner took some preliminary steps to commence the production of the project and incurred some expenses. To celebrate 70th independence day, an advertisement was published in the national newspapers for inviting advertising agencies and production houses to present their proposals with regard to film production, tele dramas and documentaries. In response to this advertisement, the

petitioner also applied and respondent invited the petitioner and other applicants for presentation of their ideas for prequalification measure. It is further contended by the learned counsel that petitioner and other bidders were called upon to submit their technical and financial proposals and the then Federal Minister of Communication and Broadcasting encouraged the petitioner and assured that funds shall be released and handed over to the petitioners. It is further contended that petitioner has incurred Rs.33,460,149/- for the project. It was further contended by the learned counsel that after completing all the codal formalities and qualifying under the PPRA Rules, the petitioner commenced the working but the respondent has unlawfully resiled from its legal duty to release the funds.

2. Heard the arguments. The petitioner has sought directions against the respondent to release the funds to the petitioner on complying with all requisite, administrative formalities as to give full effect of the respondents approval of the bidding process. Further directions have been sought against the respondents to recompense the petitioner for the expenses already incurred. We raised a query to the learned counsel as to whether any work order was issued after the alleged approval of the bid? Learned counsel replied in negative, however, he relied on some whatsapp messages to show that some understanding was given by the then Minister for Communication Ms. Mariyam Aurangzaib. We have also flipped through the text of whatsapp messages but

do not find any clarity in any message which may amount to acceptance of the bid. Even otherwise, the bidding process is a serious matter in which no vested right can be claimed on the strength of mere whatsapp message to claim that bid has been accepted rather as a consequence of acceptance of bid the Procuring Authority has to issue work order and also sign off the contract. Learned counsel also claimed that due to non issuance of the work order on the alleged technical and financial representation, the respondent has violated the PPRA Rules but at the same time learned counsel could not demonstrate as to whether any complaint was filed to the Redressal Committee of the PPRA Rules. Unless the bid is accepted no vested right can be claimed by the Petitioner. However, learned counsel claims to have some understanding of the petitioner with the then Minister for Communication that the contract will be awarded and/or the funds will be released which is disputed question of fact. It is an elementary principle that in order to justify the grant of extraordinary relief, the petitioner needs to do and the absence of adequate remedy under the law must clearly appear. A person is held to be aggrieved only when a person is denied a legal right by someone and his legal duty to perform relating right. A person invoking a constitutional jurisdiction has to establish that he is an aggrieved party; the relief sought is one which he is legally entitled to seek under the provisions of law and for seeking such relief no other forum and remedy is available to invoke. To constitute a valid

contract, one of the essential conditions is consensus ad-idem that must exist between the parties with regard to the terms of contract. The contractual rights or contractual obligations, if any, may be enforced through the courts of ordinary jurisdiction and cannot be interfered with by this court while exercising constitutional jurisdiction. In case of non-award of a contract despite alleged understanding between the petitioner and respondent, writ is not appropriate remedy but in order to redress and/or ventilate the grievance, the petitioner instead of approaching this court under the constitutional jurisdiction ought to have filed a civil suit in the competent court. The petition is not maintainable which is dismissed in limine.

JUDGE

JUDGE

Aadil Arab