

IN THE HIGH COURT OF SINDH, AT KARACHI

Present:

Mr. Justice Muhammad Shafi Siddiqui

Mr. Justice Adnan-ul-Karim Memon

C.P. No. D- 5278 of 2019

Waqar Haider & others,

Petitioners through:

Ms. Almas Fayyaz Farooqui

Date of hearing:

30.08.2019

Date of order:

30.08.2019

ORDER

The petitioners, through the captioned Petition, have asked for removal of Principal, Civil Aviation Authority, Model School and Colleges, Jinnah International Airport, Karachi (JIAP) Karachi, on the ground that she has already attained the age of superannuation i.e. 60 years as well as her mental condition is not up to the mark to deal with the affairs of CAA Model School Karachi as senior Principal. We inquired from the learned Counsel for the Petitioner as to how this Petition is maintainable against the Principal of Model School & Colleges (CAA), which is a private entity.

2. Ms. Almas Fayyaz has argued that the aforesaid School is being owned and controlled by Civil Aviation Authority, though the Service Regulations of the Civil Aviation are non-statutory, thus the Petition is still maintainable; that post of Principal is public office, therefore, the Petition is maintainable against the officials of Semi-Government Authority. She next argued that the Petitioners are employees of CAA Model School and Colleges and are aggrieved by the cruel conduct of Respondent No.3 whose re-employment for the aforesaid post is against the policy decision of Civil Aviation Authority available at Page-35 of the *Memo of Petition*; that the Respondent No.3 is mentally ill and unable to carry out her job activities; that she is involved in immoral activities and causing undue harassment to the Petitioners. We again asked that the present matter involves factual controversy and no final decision can be given in Writ Jurisdiction on the allegations leveled by the Petitioners in the Memo of Grounds which requires evidence. She replied that under Rule 13 of Civil Servants Act, 1973, the Respondent No.3 is not entitled for re-employment after her retirement from service.

3. We have heard the learned counsel for the Petitioners and have perused the record.

4. From a factual perspective, we have noticed that the Petitioners have only leveled bald allegations against the Senior Principal of Civil Aviation Authority Model School and Colleges, which cannot be thrashed out in Constitutional Petition. The Petitioners have no concrete proof with regard to mental capacity of the Respondent No.3 to claim her removal from the post of Senior Principal Model School and Colleges.

5. In absence of aforesaid material, the petitioners have failed to make out a case of unlawful appointment of Respondent No.3. The entire case is based upon factual controversy which cannot be gone into by this court in exercising of its constitutional jurisdiction.

6. In the light of the above facts and circumstances of the case, this Petition is misconceived, thus cannot be entertained by this Court under Article 199 of the Constitution, which is accordingly dismissed in *limine* along with listed applications. However, Petitioners are at liberty to avail an appropriate remedy under the law.

7. These are the reasons of our short order dated 30.8.2019, whereby we have dismissed the captioned petition in *limine*.

JUDGE

JUDGE