

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

**Before:**

Mr. Justice Omar Sial

Mr. Justice Adnan-ul-Karim Memon

**C.P. No.D-747 of 2020**

Jameel Ahmed Channar -----Petitioner

VERSUS

Province of Sindh & others ----- Respondents

**Date of hearing: 23.09.2020**

**Date of Decision: 30.09.2020**

Mr. Ishrat Ali Lohar, Advocate for Petitioner

Mr. Sarmad Hani Advocate for RespondentNo.2.

Mr. Kamaluddin, Advocate for PUMHS, Shaheed Benazirabad

Mr. Allah Bachayo Soomro, Additional Advocate General Sindh

**ORDER**

**ADNAN-UL-KARIM MEMON, J.** In the instant lis, the Petitioner has prayed for issuance of 'writ of quo warranto' against Respondent No.2 to vacate the office of Vice-Chancellor of the Peoples University of Medical and Health Sciences for Women (PUMHSW)at Shaheed Benazir Abad on the ground that Respondent No. 2 is not qualified to hold the office and his appointment is hit by Article 199 (1) (b) (ii) of the Constitution of Islamic Republic of Pakistan, 1973.

2. We asked learned counsel for the Petitioner to satisfy this Court on the issue of maintainability of this petition on the ground that RespondentNo.2 is temporarily holding the post till the appointment of regular Vice-Chancellor PUMHSW, Shaheed Benazirabad.

3. Mr. Ishrat Ali Lohar, learned counsel for Petitioner has argued that the Respondent No.2 does not qualify to hold the office of Vice-Chancellor, PUMHSW on an acting charge basis. He has submitted that the Respondent No.2 is holding a public office which falls within the purview of sub-clause (1) (b) (ii) of Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

He added that Respondent No.2 despite crossing the age of superannuation i.e. 60 years is holding meetings of Syndicate, making regular appointments and other ancillary works of Respondent-University in violation of common decision dated 23.4.2016 rendered by this court in the case of Pakistan Medical Association versus Chancellor, Dow University of Health Sciences and others. He prays for grant of instant petition.

4. On the contrary, learned Counsel representing private Respondent No.2 raised the question of maintainability of the petition and contended that the Respondent No.2 is a highly qualified person and is holding the subject post on acting charge basis till the appointment of regular Vice-Chancellor. He next argued that the Petitioner has no locus standi to file this Petition because he is not aggrieved and has personal interest in the matter which disqualifies him to ask for relief under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973; that Respondent No.2 does not suffer from any inherent disqualification to hold the subject post.

5. Mr. Kamaluddin, Advocate for Respondent-University raised the question of maintainability of the Petition and referred to his para-wise comments while supporting the stance of Respondent No.2.

6. We have heard learned counsel for the parties, perused the material available on record and the case-law cited at the bar.

7. It is pertinent to observe that on 23.09.2020 this petition was heard along with C.P. No.D-1970 of 2019 and C.P. No.D-978 of 2020. But, the instant Petition involves different questions hence, the same is being decided separately.

8. We are not satisfied with the assertions of learned counsel for the Petitioner because under section 13 (2) of PUMHSW, Shaheed Benazirabad Act, 2009 when the office of the Vice-Chancellor is vacant, the Chancellor on the recommendation of Government shall make such arrangements for the performance of the duties of the Vice-Chancellor.

9. Reverting to the next assertion that Respondent No.2 cannot hold the post of Vice-Chancellor on acting charge basis after reaching the age of superannuation i.e. 60 years we hold that the said issue may be decided by the competent authority in accordance with relevant laws within a period of two weeks from the date of this order.

10. The above discussion lead us to an irresistible conclusion that the instant Petition being incompetent is dismissed along with pending application(s) with no orders as to cost.

JUDGE

JUDGE