

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No. D-5543 of 2020

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

Fresh case.

1. For order on Misc. No.23615/2020
2. For order on Misc. No.23616/2020
3. For order on Misc. No.23617/2020
4. For hearing of main case.

05.11.2020

Mr. Rafiq Ahmed Kalwar, advocate for the petitioner.

1. Urgency granted.
2. Granted subject to all just exceptions.

3&4. As per the Petition, the Petitioner had apparently entered into a contract with the District Government Thatta on 25.03.2018, whereby he contracted to collect District Development Tax on Coal, Reti, Bajri, Crush, Stone and other mineral resources in the District for a period of three years from that date. Per learned counsel, after dissolution of the local council as of 30.08.2020, the members of the new administration are seeking to intimidate the Petitioner to withdraw from the contract and are hindering him in performance thereunder. On this basis, the Petitioner has filed this Petition under Article 199 of the Constitution, praying *inter alia* that this Court:-

- A. Declare that the actions, conduct and manner of the Respondent Nos.3 & 4, coercing, forcing, intimidating and harassing the Petitioner to withdraw and cancel from the Agreement/Contract for collection of District Development Tax for District Thatta are illegal, mala fide, unlawful and unconstitutional;
- B. Declare that the Respondents demand from the Petitioner to withdraw from the Agreement/Contract for the collection of District Development Tax, without any rhyme & reason, is illegal, unlawful and unconstitutional;
- C. Direct the Respondents to allow the Petitioner to continue his tenure as Contractor for the period extended till 25th March, 2022.

- D. Restrain the Respondents and their agents, from taking any adverse action including but not limited to, cancelling and withdrawing of the Contract granted in favour of the Petitioner and from hindering the lawful functioning of the contract by the Petitioner in any manner;
- E. Pass ad-interim Orders whereof restraining the Respondents from coercing, intimidating or cancelling the Contract of the Petitioner and further restrain the Respondents from taking any adverse or coercive action against the Petitioner, till final disposal of the instant Petition.”

On a query posed as to whether any notice had been issued to the Petitioner for cessation of work or threatening termination of the Contract, learned counsel concedes that no such notice has ensued to date, however, he has invited attention to the pleadings wherein it has been asserted that the Petitioner is being harassed for such purpose.

Under the given circumstances, where the underlying relationship is governed by contract and the prayers made in this petition are essentially those of forestalling harassment while securing continuity of the contract for its remaining duration, with interim relief having also been elicited in that vein, we are of the view that the matter does not present a fit subject for exercise of the writ jurisdiction. Instead, the Petitioner may, if so advised and inclined, seek to enforce his rights under the contract, if any, by way of a civil suit before the competent Court of plenary jurisdiction having jurisdiction in the matter and also set the wheels of the criminal justice system in motion if any harassment/intimidation is indeed being caused.

That being so, no case of issuance of writ within the parameters of Article 199 stands made out. The Petition accordingly stands dismissed *in limine*, leaving the Petitioner at liberty to avail such alternate remedies as are open to him under the law.

JUDGE

JUDGE