

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D – 3816 of 2011

Niaz Ahmed Abro and others

Versus

Province of Sindh and 02 others

Constitutional Petition No. D – 713 of 2013

Syed Zafar Ali Shah

Versus

Province of Sindh and 54 others

For hearing of CMA No.24093/2020 (Contempt) :

Date of hearing & order : 24.12.2020

Mr. Ali Asadullah Bullo, advocate for the petitioners.

Mr. Ali Safdar Depar, Assistant AG.

Mr. Samiullah Soomro, advocate for respondents 8, 27, 30, 31, 34, 35, 36, 38, 39, 40, 44, 49 and 55.

Chiragdin Hingoro, respondent No.25 and Muhammad Babar Qadeer, respondent No.49 are present in person.

ORDER

Adnan-ul-Karim Memon, J. The present application for initiating contempt proceedings, against the alleged contemnor, arises out of the common judgment passed by this Court on 06.09.2019 with the direction to Chief Secretary Sindh to scrutinize the service record of the serving private Respondents, who have not qualified earlier the Departmental Examination of Assistant Collector Part-1 and II and determine whether or not they have been legally promoted, and whether or not in their promotion, the directions of the Hon'ble Supreme Court in its judgment rendered in the cases of Criminal Original Petition No.89/2011 and Ali Azhar Khan Baloch, 2015 SCMR 456 and principle settled about the exemption in qualifying departmental examination vide order dated 26.05.2016 in Civil Petition No.76-K and 77-K of 2015. The operative part of the judgment is reproduced as under :

35. Before parting with this judgment, we may observe that if the serving private respondents, who have not qualified the Departmental Examination of Collector Part-I and II, they are required to undergo the said examination process, if the said exercise is not undertaken earlier, as required under the law, within a period of six months from the date of receipt of the Judgment of this court and after announcement of their respective results, the same be placed before the competent authority for appropriate order, however if they fail to appear in the said examination or if earlier failed, the competent authority shall take prompt action in accordance with law.

36. The petitions stand disposed of in the above terms.”

2. On 10.11.2020, petitioner No.2 filed an application under Section 3 & 4 of the Contempt of Court Ordinance 2003 (CMA No. 24093/2020) for initiation of contempt proceedings against the alleged contemnor on account of his willful, intentional, and deliberate act of disobeying the abovementioned judgment passed by this Court within the stipulated time.

3. We have heard learned counsel for the applicant and learned AAG on the listed application. We have scrutinized the purported compliance report submitted on behalf of the alleged contemnor. *Prima-facie* the explanation offered by him vide statement dated 02.12.2020 is not tenable under the law. In our view, merely issuing the show cause notice to the delinquents / beneficiaries is not sufficient and cannot be termed as compliance of the judgment passed by this Court in letter and spirit. *Prima-facie*, the alleged contemnor took the matter lightly and neglected to respect the judgment in its letter and spirit, therefore, the said report is rejected. Thus, this Court is left with no choice but to take cognizance of the matter and action against the alleged contemnor under Article 204 of the Constitution.

5. At this stage learned AAG has intervened and requested four (04) months' time to complete the disciplinary proceedings against the private respondents / beneficiaries who failed to qualify the Departmental Examination of Collector Part-I and II as directed by this Court and orders passed by the Hon'ble Supreme Court in this regard. In view of the undertaking given by learned AAG, the alleged contemnor is granted the last opportunity to comply with the direction of this Court in the instant matter and the direction of the Hon'ble Supreme Court, without fail within three (03) weeks and to submit the compliance report to this Court on the next date of hearing and complete the disciplinary proceedings as already initiated within the aforesaid period by providing the opportunity of hearing to them, failing which show cause notice shall be issued to alleged contemnor on the next date of hearing. However, during the intervening period, the private respondents / beneficiaries who failed to qualify the Departmental Examination of Collector Part-I and II shall not be given administrative assignment / postings.

To be listed on **14.01.2021 at 11:00 a.m.**, when alleged contemnor must be present in Court along with his compliance report.

J U D G E

J U D G E

