

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No.327 of 2021

Order with signature of Judge

Direction

1. For order on CMA. No.3760/21 (urgent)
2. For order on CMA No.3761/21 (stay)
3. For order as to maintainability of petition

Dated : 04.02.2021

Mr. Irshad Ali Shar, advocate for petitioner.

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1. Urgency granted.

2&3. It is contended *inter-alia* that the petitioner has prayed for issuance of the writ of quo warranto against the private respondents to vacate the office presently they are holding, inter-alia, on the ground that they are not qualified to hold the office and their appointments are hit by Article 199 (1) (b) (ii) of the Constitution, 1973. Per petitioner, the initial appointment of the private respondents in BPS 17 and their subsequent promotion in BPS-19 is/was against the landmark judgment passed by the Hon'ble Supreme Court of Pakistan in Criminal Original Petition No.89 of 2011 reported in 2013 SCMR 1752, whereby those who were granted exemption from qualifying Departmental Examination Part- I & II prescribed for the post of Assistant Collector/Assistant Commissioner (Revenue) and given out of turn promotions, were reverted vide order dated 27.9.2016. Per Petitioner, the aforesaid directions have not been implemented by the official respondents; hence, the petitioner has approached this Court by filing the captioned petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

We inquired from the learned counsel for the petitioner to point out any order or judgment of the Honorable Supreme Court which has not been implemented yet. He replied that this Court vide judgment dated 06.09.2019 observed at paragraph 32 ` 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 six months from the date of receipt of the Judgment of this court and after the announcement of their respective results, the same be placed before the competent authority for an 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 ` .

Per learned counsel, the private respondents have not qualified for the required examination for confirmation on their respective positions. He prayed for the direction to the respondents No.1 to 3 to take action in the light of judgment passed by this Court cited supra.

To appreciate as to whether the case of private respondents falls within the ratio of the judgment dated 06.09.2019 passed by this Court in C.P. No. 3816 of 2011 and connected petitions as well as the order dated 26.5.2016 passed by the Hon'ble Supreme Court of Pakistan in Civil Petitions No.76-K & 77-K of 2015. Let notice be repeated upon the respondents for 17.02.2021 with direction to the respondents to file comments before the next date of hearing.

Judge

Judge