

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No.1038 of 2021

Order with signature of Judge

Fresh Case

1. For order on Misc. No.4363/21 (urgent)
2. For order on office objection no.15
3. For order on Misc. No.4364/21 (Exemption)
4. For order on Misc. No.4365/21 (stay)
5. For hearing of main case.

Dated : 12.02.2021

Ch. Muhammad Ashraf Khan, advocate for the petitioners.

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1. Granted.
2. Deferred for the time being.
3. Granted subject to all just exceptions.
- 4-5. It is contended *inter-alia* that the petitioners have approached this Court for enforcement of Article 140A of the Constitution, whereby it is imperative for the Sindh Government to devolve political, administrative and financial responsibility and authority to the elected representatives of the local governments in its letter and spirit. Learned counsel emphasized that the respondent-Local Government has issued notification dated 08.10.2020 whereby the posts of various cadres on the strength of Karachi Metropolitan Corporation were placed on the Schedule of Establishment of Local Council of Sindh Province in disregard to the Sindh Local Government Act, 2013 and rules framed thereunder. He asserts that the act of transferring of officers from various department of Government of Sindh and other councils to the local councils of Karachi/ Hyderabad/ Sukkur, etc. is illegal void and of no legal effect, thus the notification issued in pursuance thereof as discussed supra is liable to be set aside. Per petitioners, this is an abortive attempt on the part of Sindh Government to usurp the rights of urban areas as protected under Article 140A of the Constitution as well as under the provisions of the Sindh Local Government Act, 2013. In support of his contention, learned counsel referred to paragraph 10 of the memo of the petition and argued that the powers exercised under section 121 of the Sindh Local Government Act, 2013, by the Sindh Government to place the posts of Sindh Council Unified Grades Services (SCUG) on the schedule of Establishment of Local Council of Sindh Province virtually cannot be effectively done on the premise that the Council has a different composition than the Council of an urban area as

defined under the Act, 2013; and, the employees of Metropolitan Corporation and their posts cannot be placed on the schedule of Local Council by the issuance of impugned notification as discussed supra. He referred to various provisions of the Act 2013 and argued that the transfer and posting of officers working in the Local Council of Karachi to another Council of Sindh Province cannot be made under the law. He prays for notice and in meanwhile suspension of the impugned notification.

To appreciate as to whether the notification dated 08.08.2020 (page 185) issued by the Government of Sindh, Local Government Department, is in contravention of the provision of Sindh Local Government Act, 2013 and whether the posts of Karachi Metropolitan Corporation could be placed on the schedule of Establishment of Local Council of Sindh Province under the law; and, whether in transfer and posting matters any right of the petitioners is involved. Let, at the first instance, the notice be issued to the respondents as well as to AAG for a date to be fixed by the office in the third week of this month with direction to the respondents to file comments before the next date of hearing.

Judge

Judge