

Order Sheet
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

C. P No. D – 1107 of 2020

Date	Order with Signature of Hon'ble Judge
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Hearing of case (Priority)

1. For orders on office objection at flag 'A'
2. For hearing of CMA No. 5203/2020 (S/A)
3. For hearing of main case

07.12.2021

Mr. Kashif Hussain Shaikh, Advocate along with Petitioner
Mr. Zulfiqar Ali Naich, Assistant Advocate General

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Through this petition the petitioner who is a Government Employee in BPS-16 in the office of Executive Engineer, Buildings, Khairpur, has sought the following relief;

- (a) That this Honourable Court may be pleased to declare the act of respondents No.8 to 13 by creating hindrance in peaceful job of the petitioner is null and void, same is against the law.
- (b) That this Honourable Court may be pleased to direct the respondent No.2 to 7 to continue their job against the encroachment made on Government property at Government Residential Colonies Khairpur, furthermore this Honourable Court may be pleased to direct the respondents No.2 to 7 take action against the persons who have illegally encroached the Government property.
- (c) That this Honourable Court may be pleased to direct the respondent No.2 and 3 to get official record pertaining to residential Colonies of District Khairpur from the respondent No.12, in accordance with law, further the respondent No.14 may be directed to take action against the respondent No.11.
- (d) That this Honourable Court may be pleased to grant ad-interim injunction by directing the respondents not to interfere in the lawful duty of the Petitioner till disposal of the instant petition.
- (e) That this Honourable Court may be pleased to grant any other equitable relief which this Honourable Court may deem fit and proper in the circumstances of the above case.
- (f) To award the cost of the petition.

On the very first date of hearing when notice was ordered, it was also directed that petition be fixed on 5.11.2020 at 11.00 AM and on such date it was fixed with a bunch of petitions which apparently has no nexus with this petition. The other petitions were filed by aggrieved persons either in respect of denial of possession of official accommodation already allotted to them; or by persons who had been issued notices for using the official

accommodation without authority and proper allotment or entitlement. For unexplained reasons this petition was then fixed along with all the other petitions as noted in order dated 5.11.2020; nonetheless on 10.11.2021 we had passed the following order;

This Petition was filed on 20-10-2020 and was taken up on the very same date by this Court and adjourned to 05-11-2020 to be taken up at 11:00 am after notice to Respondents. On 05-11-2020, this Petition was fixed along with various other Petitions however, it is not clear as to why and under what manner this Petition was fixed along with C.P No.D-414/2019 and other connected matters, as apparently there is no such direction of the Court to do so. Nonetheless, thereafter this Petition has been regularly fixed with various other Petitions as noted in order dated 05-11-2020 and thereafter certain Petitions have either been withdrawn or disposed of for one reason or the other. Today this Petition is fixed along with C.P No.D-414/2019 and C.P No.D-916/2017, out of which C.P No.916/2017 stood disposed of, whereas, other Petitions have also served their purpose. Moreover, both these Petitions apparently have no nexus with the prayer sought for.

After going through the prayer in this Petition, Petitioner's Counsel is directed to come prepared and satisfy as to the relief being sought in his official capacity working as a Head Clerk in discharging of his duties against some Respondents. Counsel needs time. Accordingly, adjourned to **30-11-2021** when Counsel for the Petitioner shall first address the question of relief sought in this Petition on the next date of hearing.

Today despite adequate opportunity, petitioners Counsel has not been able to satisfy as to how this petition is maintainable and could be filed by a Government Servant against his own superiors regarding alleged hindrance in discharge of his official responsibilities. It is admittedly not a petition by a person in respect of any of his personal grievance; or for enforcement of any of his fundamental rights. It is in fact, not by an aggrieved person for that matter. Rather appears to have been initiated with ulterior motives; or an obsessional enthusiasm. Lastly, it is not with permission of any competent authority. Be that as it may, prima facie it appears to be an act of misconduct within the contemplation of **Rule 2(4)¹ of The Sindh Civil Servants (Efficiency & Discipline) Rules, 1973**, read with **Rule 19² and 30³ of The Sindh Civil Servants (Conduct) Rules 2008**.

Today the petitioners Counsel has also made an attempt to seek permission to withdraw the petition, which we have declined as by misleading the Court, various orders have been obtained which have one

¹ Misconduct means conduct prejudicial to good order of service;

² Unauthorized communication of official documents or information;

³ Vindication by civil servant of their public acts or character;

way or the other, prejudiced various persons including Respondents; hence, the petition is liable to be dismissed as not being maintainable with costs. Accordingly, it stands dismissed with cost of Rs.25,000/- to be deposited in the account of High Court Clinic, Sukkur, and Library Fund of High Court Bar, Sukkur, equally.

At the same time, we cannot let this attempt go unnoticed, and therefore, direct the Chief Secretary and Secretary, Works & Services Department, to examine the matter and the conduct of the petitioner which apparently appears to be a case of misconduct under the Rules as noted hereinabove. If deemed appropriate, disciplinary proceedings be initiated against the petitioner in accordance with law which shall be concluded either way expeditiously.

Petition stands dismissed with the above directions, whereas, cost be deposited within 15 days from today, failing which action be initiated by the office for blocking CNIC of the petitioner through NADRA.

Let Copy of this order be communicated to learned AAG at Sukkur for compliance.

JUDGE

Faisal Mumtaz/PS

JUDGE