

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

C.P. No.D-3463 of 2019

Date	Order with signature of Judge
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1. For orders as to non-prosecution of CMA 35419/19
2. For hearing of CMA 27556/19
3. For hearing of main case

Dated: 18.03.2021

Malik Naeem Iqbal for petitioners.
Mr. M. Nishat Warsi, Deputy Attorney General.
Mr. Saalim Salam Ansari for respondent No.4.
Mr., Ali Asadullah Bullo for respondent No.10.

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This petition is primarily directed to the validity of the appointment of respondent No.10 who is holding a public office in violation of Article 199(1) (b) (ii) of the Constitution.

This matter is pending since May 2019 and neither respondent No.4 nor respondent No.10 have been able to file their respective counter-affidavits or parawise comments and only after hectic efforts parawise comments have been filed by Mr. Saalim Salam Ansari on behalf of respondent No.4 in Court today, which are taken on record.

We have inquired from the counsels appearing for respondents as to what was the process and mechanism adopted for the appointment of the Managing Consultant of NICVD. Learned counsels have candidly conceded that though there is no advertisement in this regard but since the market for such post is such a small one that it was conveniently communicated to interested persons. We however are not sure as to how awareness was enlarged to the public who may have been interested in the appointment on such post. Counsel for respondent No.4 in this regard has relied upon the offer letter dated 10.11.2015 and submits

that based on it interview of respondent No.10 alleged Managing Consultant of NICVD was conducted. Prima facie, it appears that neither advertisement for the subject post was published in the newspapers, nor Recruitment Committee was constituted, nothing in this regard was done by the management of respondent-NICVD at the time of his purported appointment on the aforesaid post. This appears to be a mockery of law as without any transparent and lawful procedure Managing Consultant was appointed. NICVD is one of the few sources of health service that is being provided to the citizens of Karachi as well as the entire province and despite that the Management consultant was hired in such a manner.

We, therefore, deem it appropriate to suspend the notification of the appointment of respondent No.10. Resultantly from now on, he would not claim any benefits as being a management consultant of NICVD till the next date of hearing. Respondent No.10, in case he so desires, may file parawise comments/counter-affidavit before the next date of hearing which may be fixed after two weeks.

Learned counsel for respondent No.4 has pointed out that there is also the question of maintainability of the petition. Such question shall be addressed by him on the next date which shall be decided in priority along with merits of the case.

Judge

Judge