

IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhry

Constitutional Petition No. D– 6604 of 2020

Nasim Ahmed Memon

Versus

Province of Sindh and another

Date of hearing & order : 13.04.2021

Mr. Rafiq Ahmed Kalwar, advocate alongwith the petitioner.

Mr. Ali Safdar Depar, AAG along with Alamuddin Bullo, Additional Chief Secretary, Government of Sindh.

ORDER

ADNAN-UL-KARIM MEMON, J. – Through the instant Petition, the petitioner is seeking following relief(s):

- a) Direct the Respondents to act upon the offer letter dated 20.08.2020 bearing No. S.O (B)/U&B/APPT/Nasim/2020 issued to the Petitioner and issue Notification for appointment of the Petitioner for the post of Chairman Board of Intermediate and Secondary Education, Larkana;
- b) Declare that the acts of the Respondents in illegally delaying the issuance of Notification of the Petitioner for appointment to the post of Chairman, BISE, Larkana are beyond jurisdiction, illegal, unlawful, unconstitutional, and malafide;
- c) Direct the Respondents to produce before this Hon’ble Court adverse report, if any, furnished by the concerned law enforcement agencies in respect of Petitioner’s Character and Antecedents which could otherwise be made the basis for denying or delaying the issuance of appointment letter in favour of the Petitioner.

2. Mr. Rafiq Ahmed Kalwar, learned counsel for the petitioner emphatically argued that the petitioner is an educationist and has been serving in the Public Education Sector in Sindh since 1987. Per learned counsel the Universities and Boards Department, the Government of Sindh, Karachi invited application for the position of “Chairman-Board” and petitioner was one of the candidates for the aforesaid post. It is urged that the Search Committee after examination of his candidature shortlisted him for the preliminary interview on 04.03.2020; and, after interviewing him he was declared as the successful candidate for the position of Chairman-Board and such recommendation was duly forwarded to the competent authority i.e. Chief Minister, Sindh, who was pleased to approve his appointment as Chairman, Board of Intermediate and Secondary Education, Larkana. Per learned counsel, the respondent-Universities and Boards offered him the aforesaid post vide letter dated 20.08.2020 for three (03) years available at (Page-47). Learned counsel emphasized that he accepted the offer letter on 21.08.2020 and subsequently resigned from the post of Principal and Project

Director of Cadet College Karampur vide letter dated 12.10.2020. Per learned counsel, the respondents are deliberately delaying the issuance of appointment letter in favour of the petitioner on a false pretext, and at the same time issued the appointment orders of the other shortlisted candidates, which act on their part is discriminatory. He asserted that a vested right has been created in favour of the petitioner against the post of Chairman of BISE, Larkana and there is a strong likelihood that the respondents may cancel the offer letter issued in his favour at any time. He prayed for a direction to the respondents to act upon the offer letter dated 20.08.2020 issued to the petitioner and such notification of his appointment may be directed to be issued in the best interest of justice. At this stage, we asked the learned counsel whether the condition mentioned in the offer letter dated 20.08.2020 has been complied with or otherwise, he replied and referred Page-51 to 59 and argued that the concerned agencies have submitted the satisfactory report in favour of the petitioner as such the respondents do not need to delay in issuing the appointment letter for the subject post.

3. Mr. Ali Safdar Depar, learned AAG, initially resisted this petition on the premise that the petitioner does not carry a good reputation and relied upon the Special Report (available on page 28 of the Summary for the Chief Minister Sindh). At this juncture, learned counsel for the petitioner, pointed out that this Special Report could not be relied upon on the premise that it is neither signed nor it is supported by any documentary evidence so far as the purported allegations leveled against the petitioner are concerned. He also pointed out that the parentage of the petitioner has wrongly been mentioned in the said report; therefore, based on Special Report, the petitioner could not be held ineligible for the subject post. Learned counsel referred to the letter dated 01.09.2020 of the Government of Sindh Home Department, (page 51 to 55) and argued that the Police department has verified the antecedents of the petitioner and found nothing derogatory against him. He also referred to the report dated 11.12.2020 of Inter-Services Intelligence (ISI) Secretariat Islamabad, (page 193) and argued that the petitioner's name has been cleared by the above-referred agency for his appointment for the subject post.

4. After arguing the matter at some length, learned AAG along with Alamuddin Bullo, Additional Chief Secretary, Government of Sindh, submitted that the appointing authority may be allowed to seek a fresh report from the Intelligence Bureau (IB) as to the credentials of the petitioner, and if such report is satisfactory, the appointment order will be issued.

5. We have heard learned counsel for the parties on the subject issue and perused the material available on record as well as the summary for the Chief Minister Sindh and a bunch of documents attached with the summary (page 1 to 28).

6. Prima facie, it seems that the petitioner was recommended by Search Committee, and with the approval of the Competent/Controlling Authority for

Education Boards, he was offered for the appointment as Chairman, Board of Intermediate and Secondary Education, Larkana, under Section 14(2) of the Sindh Board of Intermediate and Secondary Education Ordinance, 1972, read with 15(1) *ibid* for three years, subject to satisfactory reports from the concerned agencies regarding his character and antecedents.

7. Primarily, the two agencies have reported in favor of the petitioner, however, one Special Report dated Nil is adversely affecting him. *Prima facie*, the said report is neither signed nor discloses the correct parentage of the petitioner, thus could not be taken into consideration.

8. We are, therefore, of the considered opinion that while the respondents may seek satisfaction of the character of the petitioner, the so-called intelligence report from the (IB) relied upon is no ground for withholding the petitioner's appointment letter.

9. In light of the above facts and circumstances of the case, this petition is allowed in the terms whereby the Competent Authority of respondent-department is directed to issue the appointment letter to the petitioner for the post of Chairman, Board of Intermediate and Secondary Education, Larkana.

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