

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
CP No.D-2619 of 2021

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Date Order with signature of Judge

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1. For order on Misc. No.11382/2021 (Urgent)
2. For order on Misc. No.11383/2021 (Exemption)
3. For order on Misc. No.11384/2021 (Stay)
4. For hearing of main case.

**16.04.2021**

Khawaja Izhar-ul-Hassan, petitioner present in person.  
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1. Urgency granted.
2. Granted subject to all just exceptions.

3&4. The main grievance of the petitioners is that the respondent-Malir Development Authority (MDA) has issued a defective public notice dated 17.11.2020, inviting applications for different posts in BPS-1 to BPS-17 on regular basis. It is contended *inter alia* by petitioner No.1, who is present in person, that appointment of respondent No.5-Sindh Testing Service by the MDA, which is an autonomous body of Government of Sindh, for conducting the examination/recruitment process, is wholly unconstitutional, illegal and without jurisdiction. Per petitioner, the aforesaid recruitment process ought to have been initiated under the recruitment policy/law, on the premise that appointment in BPS-1 to BPS-15 shall be made on the regional quota basis i.e. Karachi (region). He emphasized that appointments in BPS-16 and above ought to have been made through the competitive process i.e. Sindh Public Service Commission (SPSC), which has not yet been done. He referred to the order dated 16.10.2020 passed by this Court in CP No.D-6632/2019 and other connected petitions and submitted that the official respondents misused their power and authority by making recruitments against the subject posts without adopting the codal formalities as required under the law. He asserts that official respondents are attempting to fill the posts of BPS-16 & above without following the procedure provided under the law, for filling up such posts based on open merit, through a competitive process i.e. SPSC; and, under the dicta laid down by the Hon'ble Supreme Court in its various pronouncements and this Court. He also pointed out that this Court in the aforesaid proceedings directed the respondent-MDA to ensure that no such appointments are made in the future that may violate the law settled by the Hon'ble Supreme Court regarding appointments etc. Petitioner referred to

various grounds mentioned in the memo of the petition and submitted that the service of a credible, reputable, or competent testing agency as compared to other testing agencies like NTS, IBA, Bahria University, Iqra University, or Cadet Colleges, is required to be hired for the aforesaid purpose and no recruitment shall be undertaken by the respondent-STs, which has no experience of conducting such recruitment process. He referred to various documents attached with the memo of the petition and submitted that this petition is competent and prayed for notice.

To appreciate as to whether the respondent-MDA has adhered to the ratio of the order dated 16.10.2020 passed by this Court in C.P. No.D-6632/2019 and connected petition or otherwise, while making recruitments in MDA; and, whether grounds agitated by the petitioners are sufficient to halt the recruitment process initiated by the respondent-MDA, through the public notice dated 17.11.2020 or otherwise, let at the first instance notice be issued to the respondents as well as to learned AAG for 29.04.2021 with direction to file comments on or before the next date of hearing. However, it is made clear that the subject recruitment process is subject to the outcome of this petition, so far as the appointments in BPS-16 & above.

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Nadir/P.A