

Order Sheet
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

CP No. D- 04 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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24.05.2022

For orders on office objection
For hearing of MA 09/19
For hearing of MA 10/19
For hearing of main case

Mr. Irfan Ahmed Qureshi, Advocate for Petitioner
Mr. Masood Rasool Babar, Advocate for respondents 2 to 6
Mr. Ayaz Ali Rajpar, Asstt: A.G.

Learned counsel for the petitioner has challenged the consequential show-cause notices being last show-cause notice, issued to the petitioner as being violative of Article 10-A of the Constitution of Islamic Republic of Pakistan and has rendered the entire procedure as nullity, as argued by the petitioner's counsel. It is the case of the petitioner that though initially a formal show-cause notice was issued which was responded promptly; however, the complainant and some material witnesses were allowed to record their statements on oath in the absence of the petitioner. He could not rebut the allegations raised in the statements on oath and is being used against him. It is not a case of dispensation of inquiry.

2. Mr. Masood Rasool Babar, learned counsel for respondents 2 to 6 has attempted to show that he was issued notices for 24th of April 2018 for appearance before competent authority; however, record reflects that the complainant's statement was itself reduced on stamp paper of 26th April 2018. The statements could not have been recorded on 24th April 2018 for which notices were issued for cross-examination. He has not been able to demonstrate if any subsequent notice was issued to the petitioner since he conceded. The High Power Committee relying on these statements have issued the impugned show-cause notice dated 10.10.2018 and the

petitioner's counsel apprehends that since the statements of the witnesses and complainant have gone unrebutted an adverse action is being anticipated. The material question is whether Article 10-A of the Constitution has been violated. Since the statements on oath are being used against the petitioner to whom no opportunity was given to cross-examine, we are of the view that this apparently is not a fair and transparent process of inquiry and perhaps violates the right of fair trial as guaranteed under Article 10-A of the Constitution of Islamic Republic of Pakistan. When confronted with the learned counsel appearing for Mehran University he conceded that petitioner was not given a fair opportunity to cross-examine the material witnesses. He submits that before any action under the law could be taken, the petitioner may appear and cross-examine the material witnesses so that transparent procedure be seen to have been adopted.

3. On this statement of respondent's counsel, Mr. Irfan Ahmed Qureshi, Advocate for petitioner submits that he would then appear before the High Powered Committee and these witnesses shall be cross-examined before any action under the law be taken.

4. With this observation we dispose of this petition that the High Power Committee may set a date to conduct the cross-examination of these witnesses by the petitioner through proper notices and a fair opportunity be given since the inquiry is not being dispensed, rather inquiry was undertaken and the statements of the witnesses were being recorded which statements are being used against the petitioner.

CP No. D- 04 of 2018 in the above terms stands disposed of.

JUDGE

JUDGE