

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Const. P. No.D-4570 of 2022
Const. P. No.D-4571 of 2022
Const. P. No.D-4572 of 2022
Const. P. No.D-4573 of 2022
Const. P. No.D-4574 of 2022
Const. P. No.D-4575 of 2022
Const. P. No.D-4576 of 2022
Const. P. No.D-4577 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For order on CMA No.19937/2022
2. For orders as to maintainability.

12.08.2022.

Mr. Shaukat Ali Chaudhry, Advocate for the petitioner

1. Granted.

2. These petitions were presented before this Court on 04.08.2022 and the Court after hearing the counsel for the petitioner had observed that apparently these petitions are not maintainable and the counsel shall come prepared to assist the Court. The operative part of the said order is as under;

“We are not satisfied for the time being with the contention so advanced. Accordingly, learned is accordingly directed to come prepared as to the effect of Sections 68 and 69 of IRO, 2012, read with Sections 55(3) (c) and 77 thereof, as well as to show how the Petitioner is otherwise competent to maintain a Petition on behalf of persons who have themselves not come forward to assail the underlying proceedings against them or the order for their personal appearance.”

Today, petitioner’s counsel has made submissions and we have heard him and have also perused the record.

By way of these petitions the petitioner has impugned an identical order dated 28.07.2022 passed by Member, National Industrial Relations Commission (NIRC), Karachi, whereby a notice has been issued to one Muhammad Aurangzeb and Jamal Nasir the respondents No.1 and 2 in the complaint filed by respondent No.3. It appears that said proceedings have been initiated by NIRC in respect of an order dated 27.01.2022 passed by Full Bench of NIRC, whereby respondent No.3 in these petitions were directed to be reinstated in the service of the petitioner.

It is the case of the petitioner that no jurisdiction vests in NIRC to implement its own order as in terms of Section 74 of Industrial Relation

Act, 2012 (IRA 2012) it is only the Labour Court or a Magistrate who can initiate proceedings in respect of complaints for offence(s) punishable under the IRA 2012. In support reliance has also been placed on some ad-interim orders dated 20.08.2019 passed by the Lahore High Court as well as by the Islamabad High Court.

After perusal of the record and the contention so raised by petitioner's counsel it is our considered view that all listed present petitions are misconceived; premature and otherwise not maintainable. Firstly, the aggrieved persons i.e. respondents No.1 & 2 against whom the respondent No.3 has filed its complaint are not petitioners before us, whereas, the impugned notice has not been issued to petitioner. No assistance has been provided on behalf of the Petitioner that as to how the Petitioner can seek a relief for someone who is not before the Court. Insofar as the notice impugned in this case is concerned, the Petitioner is not an aggrieved person within the contemplation of Article 199 (1)(a) of the Constitution of Pakistan; hence, cannot approach this Court for the relief being sought. This is notwithstanding the fact the Petitioner may be aggrieved of the Original / Appellate order of NIRC, whereby, Respondents 3 in all these petitions have been reinstated in service as for that the Petitioner as informed has already filed a Constitutional Petition which as stated is pending. The relief, if at all which the petitioner can seek, is to be agitated and sought in that petition. Merely for the fact that the Respondents No.1 and 2 in the complaint of Respondent No.3 before NIRC are officers or executives of the Petitioner Bank, would not make the petitioner an aggrieved person for the purposes of Article 199 *Ibid*.

As to the other arguments made in respect of jurisdiction of NIRC for implementation of its orders and implication of the relevant provisions of IRA, 2012, is concerned, it would suffice to observe that since for the present purposes we have held that the petitioner is not an aggrieved person, therefore, we would not like to dilate upon this aspect of the case in this petition and can attend to it as and when the aggrieved person is before the Court.

In view of hereinabove above facts and circumstances of the case these petitions are not maintainable as the petitioner is not an aggrieved person; hence, are hereby dismissed in *limine*.

J U D G E

J U D G E

Amjad/PA