

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

Date

Order with Signature(s) of Judge(s)

Present:-

Mr. Justice Muhammad Iqbal Kalhoro.

Mr. Justice Agha Faisal.

**Constitutional Petition No.D-1964 of 2022**

Tanveer Zaki

**Versus**

The Federation of Pakistan & others

**Fresh case**

1. For order on Misc. No.8894/2022(U/A)
2. For orders on Misc. No.8895/2022(Exemption/App)
3. For orders on Misc. No.8896/2022(Stay/App)
4. For hearing of main case

**30.03.2022**

Mr. Muhammad Rizwan Saeed, advocate for petitioner

-----

**ORDER**

**Muhammad Iqbal Kalhoro, J:-** Petitioner, a retired Provisional Election Commissioner of Sindh, has questioned a notice dated 08.03.2022 issued by FIA, available at Page-73 of file in Photostat, calling upon him to appear before IO of Enquiry No.33/2021 actuated in terms of a complaint made by the Election Commission of Pakistan regarding disputed appointments in the office of Provisional Election Commission of Sindh in the year 2015.

2. Learned counsel, in order to establish maintainability of this petition, has referred to para-13 of a judgment available at page-79 of file, in C.P.1554-L to 1573-L of 2020 passed by the Honourable Supreme Court, and stated that no proceedings, of any kind, after two years of retirement of an employee can be undertaken against him in view of dictum laid down in the said decision. He further submits that petitioner retired on 15.06.20217 and therefore this impugned notice issued on 08.03.2022 and enquiry are hit by the ratio laid down in said judgment and are illegal and liable to be set aside.

3. After perusing the material available on record, when we asked learned counsel as to whether petitioner had turned up before the IO in

compliance of the impugned notice or the earlier notice dated 21.01.2022 served upon him, available at page-77 of file in Photostat, he replied in negative. In the judgment, cited in defence, the issue was of interpretation of section 21 of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006, proviso to which stipulates that departmental proceedings initiated against a retired employee shall be finalized not later than two years of his retirement. It is a settled law that departmental proceedings, or any outcome thereof, or a finding leading to such outcome shall have no bearing on criminal proceedings, may be in respect of same allegations, taken up for investigation or pending in any court of law against the same person, and vice versa. Both proceedings are independent to each other and detached in terms of substance and consequences. Departmental proceedings afford an issue of making a determination regarding alleged misconduct of an employee while performing official duty. While criminal proceedings deal with his action or omission committed as such which is conceptualized or comprehended as an offence or a contravention punishable under some penal law(s) for the time being in force over the subject. Therefore, apparently the judgment of Honourable Supreme Court, cited in defence, is distinguishable and is not applicable to the case of petitioner for the relief he is seeking vide this petition. No other ground, rooted in law, has been raised to justify quashing of the aforesaid notice.

4. From what has been stated, no case for indulgence, discretionary in nature, has been made out, particularly, in view of petitioner's recalcitrance to submit to the course of law enforced through impugned notice. This being the position, we find this petition not maintainable and dismiss it accordingly.

JUDGE

JUDGE

Rafiq/P.A.