

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-929 of 2023

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on Office Objection No.01.
2. For orders on Misc. No.4339/2023.
3. For hearing of main case.

28.02.2023.

Mr. Muhammad Aqil, Advocate for the Petitioner.

YOUSUF ALI SAYEED, J. - The Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, seeking that a writ of mandamus be issued, directing the Governor of State Bank of Pakistan to issue him an NOC for remitting certain funds derived by way of inheritance from his late mother as well as further funds to be realised from the envisaged sale of certain immovable properties, to his children who reside abroad. It is stated that the Petitioner sought permission from the Director, Foreign Exchange Operation, State Bank of Pakistan vide a letter dated 03.02.2022 addressed by Counsel on his behalf, however, despite a reminder dated 06.12.2022, no response has been forthcoming to-date.

2. A perusal of the aforementioned correspondence reflects the same to be vague and based on notional considerations in as much as the investments and properties in question are apparently yet to be liquidated and the Petitioner has not yet sought to make any such remittance through the commercial bank with which he is said to maintain a relationship, let alone been faced with a refusal on the basis of a regulatory impediment. This is apparent from the pleadings, with the relevant excerpt reading as follows:

“13. That the Petitioner at the request of the beneficiaries is intend to partially transfer 70% of the investment amount provided in the Mother Will dated 18.12.1990 which further intention to sale the immovable properties in Pakistan and sale proceed thereof shall be transferred from the PKR and U.S Dollar account for onward transfer to USA and Canada for which the Petitioner has applied for N.O.C from the Respondent No.2 through Respondent No.3.”

3. Furthermore, on query posed as to what rules and regulations governed the matter so as to adversely impact the Petitioner’s desire to transfer/remit such funds, our attention was drawn to a Statement filed on behalf of the Petitioner, narrating that FE Circular No.08 of 2021 dated 19th December, 2021 issued by the State Bank of Pakistan served to set a limit of USD 10,000 or equivalent as the maximum amount that a person could purchase per day, subject to a maximum limit of USD 100,000 or equivalent per person per calendar year.

4. As it stands, that Circular does not relate to the subject of outward transfers/remittances, but only brings about certain amendments in the instructions relating to Exchange Companies so as to impose maximum limits on the daily and annual purchases of foreign currency, with the relevant Provisions cited by learned counsel, reading as follows:-

“Para 12 (i) (c) Chapter 8 of Exchange Companies Manual
For all foreign currency buy and sale transactions equivalent to USD 500/- or above, Exchange Company of ‘B’ Category will obtain and retain Computerized National Identity Card (CNIC) /National Identity Card for Overseas Pakistanis (NICOP)/ Pakistan Origin Card (POC) / Passport (having valid visa on it or any other proof of legal stay of a foreigner in Pakistan) after having seen the document in original. In addition, Exchange Companies of ‘B’ Category shall also carry out biometric verification of Pakistani Nationals for all such sale transactions and maintain the record thereof. *Exchange Companies of ‘B’ Category will also obtain supporting documents related to the purpose (as stated by the customer) of FCY sale transactions, exceeding USD 1,000 or equivalent in other currencies.*

Para 12 (i) (e) Chapter 8 of Exchange Companies Manual
Exchange Companies of 'B' Category may sell foreign currency to individuals while ensuring the following limits:

- i. Maximum limit per person per day for buying foreign currency (in the form of cash or outward remittance) from all ECs/ECs-B, is USD 10,000 or equivalent in other foreign currencies.*
- ii. Maximum limit per person per calendar year for buying foreign currency (in the form of cash or outward remittance) from all ECs/ECs-B, is USD 100,000 or equivalent in other foreign currencies.*

For this purpose, the Exchange Companies of 'B' Category shall obtain an undertaking from individual customer at the time of each sale transaction exceeding USD 1,000/- (or equivalent in other currencies) that they have not already reached the limit of USD 100,000/- per calendar year or USD 10,000/- per day from all ECs (including ECs-B) and these limits will not be breached after the current transaction."

5. Conspicuously, the applications said to have been made the Petitioner do not touch upon such a matter.
6. Under the given circumstances, we see no force in the Petition and dismiss the same accordingly

JUDGE

CHIEF JUSTICE

MUBASHIR