

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constt. Petition No.D-424 of 2019

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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1. For orders on O/objection at flag-A.
2. For orders on CMA No.1164/23
3. For orders on CMA No.1163/23
4. For orders on CMA No.797/23
5. For orders on CMA No.798/23
6. For orders on CMA No.219/23
7. For orders on CMA No.220/23
8. For orders on CMA No.6445/22
9. For orders on CMA No.1592/19
10. For hearing of main case.

16.02.2023

M/s. Liaqat Ali Shar and Mansoor Hussain Larik, Advocate for petitioners/intervenors.

Mr. Muhammad Raza Soomro, Advocate for intervenors.

Mr. Ali Raza Balouch, AAG alongwith Dr. Rehmatullah Solangi, DHO Khairpur Mirs.

Pursuant to order dated 17.01.2023 and 26.01.2023 learned AAG has filed statement together with guidelines for process of recruitment in BS-05 to BS-15. The para-2 of the said guideline shows that “Administrative Department will advertise vacancies, including interview schedule with proper nomenclature of the post, encompassing its BPS, eligibility criteria and age limits etc, as laid down in the **respective Recruitment Rules** of the post so notified, in newspapers, as well as upload on its website (if any).” Further he has emphasis APT Rules, 1974 amended in 2020 which speaks that there will be Provincial, Divisional and District committees headed by Secretary, Service, General Administration & Coordination Department, Divisional Commissioner and Deputy Commissioner respectively and that committee will be comprised on four members with representation of respective departments; though petitioners case is that they appeared through

advertisement by the Health department in a test conducted by 3rd party viz. SIBA and they qualified since five years their issue is pending before DRC repeatedly Deputy Commissioner head of District Recruitment Committees (DRCs) sought clarification with regard to mandate of the DRC. Besides, Government of Sindh has announced 50,000/- posts in different department through general advertisement by the testing agency in three categories same are based on Matriculation, Intermediate and Graduation; that policy speaks passing marks will be 40% and will receive certificate by the testing agency that certificate will be valid for three years.

2. Under these circumstances, when APT Rules are not clear, therefore, Judicial propriety demands that all candidates qualified by the 3rd party test shall be treated in same manner as per policy framed by the Government of Sindh in Education department, accordingly **DRC(s) will call candidates as per merit list**; however, there will be **no discrimination**; besides, they would not be **competent to avoid merits** or **disqualify the candidates** without plausible justification, issued by the testing agency and appointment orders will be issued in favour of the successful candidates as per need of the department and vacancy position in every department in view of merit list based on marks obtained through 3rd party testing agency. **Needless to mention here that in case any qualifying candidate is refused to issue appointment order, the DRC(s) will remark credible reasons with separate sheet and will provide copy of the same to that candidate(s). Chief Secretary, Sindh shall issue such directive(s) in this regard.**

3. At this juncture, learned AAG contends that since at the time of advertisement there was no policy regarding in question advertisement in the year 2019; and APT rules are not permitting that mechanism therefore, he will argue this petition on legal grounds. Counsel for petitioners also contends that he will seek instructions from petitioners whether they have appeared in recent advertisement and test conducted by the IBA. Accordingly, Chief Secretary Sindh shall ensure compliance of this order as well as last directions for compliance to the DRCs.

To come-up on **08.03.2023 to be taken-up at 11:00 a.m.**

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