

ORDER JUDICIAL
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition Nos. D-6027 of 2020,
6192 of 2020 and 6391 of 2020

Order with signature of Judge(s)

PRESENT: MR. JUSTICE SALAHUDDIN PANIHWAR,
MR. JUSTICE ADNAN-UL-KARIM MEMON.

05.10.2021

Mr. Ali Saifur Deppar, AAO along with Mr. Ghulam Ali Brahmani, Additional Secretary (Services-I) SGA&CD
M/s M.M. Aqil Awan and Danish Rashid Khan, advocates for the interveners
Ms. Farah Khan, Special Prosecutor, NAB Karachi,
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SALAHUDDIN PANIHWAR, J: Ms. Farah Khan, Special Prosecutor for NAB files compliance report with regard to the officials involved in NAB cases in different categories, taken on record, copy whereof provided to focal person, Secretary (Services), SGA&CD.

2. Heard learned counsel for the interveners in C.P. No. D-6027/2020, Special Prosecutor for NAB and learned AAG.
3. Mr. M.M. Aqil Awan has emphasized Sections 25 and 15 of the NAB Ordinance, 1999 containing therein that VR will not come in the way of any civil servant while considering him as admission of guilt resulting that he shall not be entitled to hold any office, however he frankly contended that Convicted person despite of suspension of sentence are not entitled to hold public office.
4. Learned counsel for NAB, who has also provided assistance to this Court, is agreed on above proposition. She has also referred Section 15 1st proviso, contending that only the persons, who entered in plea bargain and convicted, are not entitled to hold any office and they are disqualified to hold public office.
5. Learned AAG has also argued this case on same proposition, assisted by Mr. Ghulam Ali Brahmani, Additional Secretary (Services-I) SGA&CD, and contends that they will submit definite statement.
6. At this juncture, it would be conducive to emphasis legal position that *'suspension of sentence does not amount to setting aside of conviction' which (Judgment of conviction) continues with its legal effects unless it is set-aside*. Mere suspension of sentence and release of convict on bail, therefore, becomes of no legal effects if at the end of day the appellate Court stamps the conviction. It is needful to add that requirement (a) to hold public office always includes *'the person with character & antecedent'* therefore, in matters of convicted public

officers(s), giving effect to above legal position, was & is a 'must' as rightly assented by counsel for NAB.

7. Accordingly, any convicted official, though released on bail pending determination of his appeal, would not claim such suspension as 'clean chit' for holding public office but shall not be entitled to hold public office till decision of his appeal. Thus, all convicted officers of all categories, though they have been granted bail, shall be removed from posting within three (03) days. Such definite statement shall be filed by the Secretary (Services) with his personal affidavit along with list of those officers and orders passed by competent authorities.

8. Whereas issue of VR and officers, who entered in VR in view of Section 25 and Section 15 of the NAB Ordinance, 1999, vires are pending before the apex Court; decision whereof shall have its legal effects. Though, this court has passed certain directions with regard to disciplinary proceedings, however at this stage, we are not diving in this issue and will examine in appropriate proceedings.

9. In view of above, Chief Secretary Sindh, secretary of all departments shall ensure compliance, defiance, would be treated pejorative act, liable to be contempt proceedings, as well as any posting in future would be taken a date to commit contempt of court. Chief Secretary and Secretary Services (Services) shall file compliance report along with complete list of officers removed under this order.

(as per court's order
dt. 8/10/21 Pranghwa
date

10. Attendance of NAB official(s) is dispensed with.

To come up on 08.10.2021 at 9:30 a.m.