

**IN THE HIGH COURT OF SINDH, AT KARACHI**

**Present:**

Ahmed Ali M. Shaikh, CJ  
and Yousuf Ali Sayeed, J

**C.P No. D-3016 of 2019**

Khawaja Izharul Hasan and others.....Petitioners

Versus

Province of Sindh and others.....Respondents

Khawaja Izharul Hasan, Petitioner No.1 present in person.

Barrister Sandeep Malani, AAG

Mr. Khaleeq Ahmed DAG

Ch. Muhammad Farooq, Advocate alongwith Ms. Samina Maqsood, Advocate for NADRA, Respondent No.10.

M/s.Muhammad Rafiq Kalwar and Muhammad Yasir, Advocates for intervenor, Sindh Vision.

Mr. Amanullah Shaikh, Advocate for Intervenor Mumtaz Ali

Date of hearing : 11.05.2023

**ORDER**

**AHMED ALI M. SHAIKH, CJ.** - Petitioners, Members of Sindh Provincial Assembly, invoke the Constitutional Jurisdiction of this Court, seeking following prayers:-

“a. That this Honourable Court may be pleased to direct the Respondents for strict follow up of the procedures/rules for issuance of Domiciles and PRCs to the persons.

b. That this Honourable Court may be pleased to direct the Respondent No.1 to 7 and to constitute & committee for the for the scrutinizing the domicile and P.R.Cs issued during period of 2008 to till date.

c. That this Honourable Court may be pleased to Direct the Respondent No.1 to constitute a committee for legal action against delinquent officials who were involved in Malpractice or Issuance of fake domicile and P.R.Cs.

d. That this Honourable Court may be pleased to direct the investigation agencies to conduct a deep investigation for the jobs which were given on the basis of such fake domicile & P.R.Cs which were produced by the petitioner.

e. Any other relief this Honourable Court may deem fit and proper in the circumstances of the case for securing the fundamental rights of public at large of Karachi.”

2. Briefly stated facts as pleaded in the memo of petition are that Petitioner No.1, Opposition Leader of the incumbent Provincial Assembly, claimed to have received certain complaints regarding issuance of fake domicile and P.R.Cs from the offices of the Respondents No.2 to 6, Deputy Commissioners of Districts South, West, Central, East and Malir, Karachi, respectively, to the ineligible non-locals in order to grab the jobs and admissions in the Universities and Medical Colleges, on Urban Quota.

3. After notice, the Respondents filed their comments, inter-alia, maintaining that the certificates of domicile are issued under Section 17 of the Pakistan Citizenship Act, 1951 and Rule 23 of the Pakistan Citizenship Rules, 1952, and the persons aggrieved by the grant of certificate of domicile/PRC may prefer an appeal before the concerned authority for its cancellation as per law. During pendency of the Petition, NADRA was impleaded as Respondent No.10 while Petitioners filed an Application under Order VI Rule 17 CPC, seeking permission to amend the prayer clause and direction to the Respondents to constitute a Judicial Commission to investigate the cases of fake domicile/PRCs. The Respondents No.1 to 9 in their objections opposed the Application as the same would change the character of the petition.

4. Petitioner No.1 present in persons argued that the domicile/PRCs have been issued to the applicants allegedly without following the codal requirements e.g. without examining the evidence, oral or documentary put forwarded, and verification of the certificate of birth either of the applicant or any of his parents or grand-parents, as the case may be. He further submitted that in terms of Rule 26 of the Pakistan Citizenship Rules, 1952, in case a Provincial Government or the Federal Government received information that a person has obtained his certificate of citizenship, certificate of domicile, etc by fraud, false representation or concealment of any material fact, a competent Magistrate is required to authorize a police officer under Section 155 Cr.P.C. to investigate the truthfulness of the information provided and if it appears that said person has made a statement or furnish information which comes within the mischief of Section 21 of the

Act, the Government may direct that the said person be prosecuted under Section 177 of the PPC. However, since the domicile are issued by the Deputy Commissioners without inviting objection or any public notice, none could furnish information or complaint to the quarter concerned that a person has acquired his certificate of domicile, etc by fraud, false representation or concealment of material fact. According to him, an efficient forum should be provided to redress the complaints of issuance of the domicile certificates or citizenship certificates to the non-residents. He has also filed a written synopsis.

5. Conversely, Mr. Muhammad Rafiq Kalwar, Advocate for Intervenor while opposing the Petition contended that the main purpose or object of filing the instant Petition is formation of a Committee to scrutinize the domiciles and PRCs issued since 2008 till date, while during pendency of the Petition the Government of Sindh vide Notification dated 26.5.2020 has constituted a Committee to probe into the complaints and reports received at various forums regarding issuance of domicile certificates to the non-residents of the districts/province of Sindh. That Committee has submitted its recommendations/finding following which Division Scrutiny Committee at each of the Division of Government of Sindh was constituted to scrutinize all the Domiciles/PRCs issued during the last ten years, etc. Further after the decision of the Provincial Cabinet dated 11.02.2021, the Government of Sindh has constituted Sindh PRC and Domicile Appellate Committee, inter alia, to receive the application/references from aggrieved persons/Divisional Scrutiny Committee constituted vide Notification dated 09.07.2020, hence, the Petition alongwith pending application has served its purpose and may be disposed of. While challenging the locus standi of the Petitioners, he submitted that they were seeking a sweeping inquiry against all domicile and PRCs issued after 2008 for political point scoring and on the basis of mere assumptions and conjectures and no relief of the sort could be granted by this Court.

6. The learned AAG while adopting the arguments advanced by the learned counsel for the Intervenor submitted that as the alternate remedy is available under the law and the Government of Sindh has already constituted Sindh PRC and Domicile Appellate Committee, the Petition be dismissed.

7. We have heard the Petitioner No.1 and learned counsel appearing for the parties and perused the material available on record.

8. The Petitioners have filed this Petition, inter alia, seeking direction to the Respondents to follow up the legal course for issuance of Domicile and PRCs and to constitute a Committee for scrutinizing the alleged fake domicile and PRCs issued since 2008 till date.

9. We have doubt as to the locus standi of the Petitioners and whether they satisfy as an aggrieved person for the purpose of Article 199 of the Constitution. Be that it may, during pendency of the Petition, vide Notification dated 26.5.2020, issued by the Chief Secretary, Sindh, a Committee was constituted to probe into the complaints and reports received at various fora regarding issuance of domicile certificates to the non-residents of the districts, fix responsibility and give its clear recommendations for further action as per law and rules. On 03.6.2020, the said Committee, inter alia, recommended for formation of Divisional Scrutiny Committees. Consequently, on 09.07.2020 Divisional Scrutiny Committees were constituted in each Division to, inter alia, scrutinize all the Domiciles/PRCs issued during the past ten years and identify suspicious cases, comprising of:-

Divisional Commissioner	Chairman
Additional Commissioner I	Member
Officer not below BS-19 (to be nominated by Chief Secretary Sindh)	Member

10. During pendency of the Petition, on 23.05.2022, the learned Assistant Advocate General, Sindh, under cover of a statement has placed on record a photocopy of a Notification dated 08.03.2021, issued by the Chief Secretary, Sindh, constituting the Sindh PRC and Domicile Appellate Committee in terms of Rule 8(2) of Sindh PRC Rules, 1971, empowering it to receive the application/reference from the aggrieved persons/Divisional Scrutiny Committee, call for record and relevant persons to ascertain facts about the residence or otherwise of any person and to decide the matter in accordance with law. In order to demonstrate that the Committee is also functional he has also placed on record photocopies of orders passed by the Appellate Committee, etc.

11. Since the Respondent No.1 has already constituted the Divisional Scrutiny Committee and the Sindh PRC and Domicile Appellate Committee at Karachi for deciding the applications received from aggrieved persons against issuance of PRC and Domicile violating the Sindh PRC Rules, 1971, Pakistan Citizenship Act, 1951 and Pakistan Citizenship Rules, 1952, which are also functional, we dismiss the Petition alongwith the pending misc. applications, leaving it open to those persons who may be aggrieved to approach the relevant forum for redressal of their grievances, if so advised.

CHIEF JUSTICE

JUDGE

Karachi, Dated