

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

**HCA 457 of 2023**

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Date	Order with signature of Judge.
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1. For order on CMA No.5900/2023
2. For order on CMA No.5901/2023
3. For hearing of main case
4. For order on CMA No.5902/2023

**18-12-2023**

Mr. Altaf Hussain, advocate for the appellant along with authorized officer of appellant namely Riaz Ahmed Sindhu and Mr. Touqeer Ahmed Seehar, Mr. Hafeezullah & Mr. Moin Sandeelo advocates

Malik Naeem Iqbal, advocate for respondent

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1. Urgency granted.

2-4. Learned counsel for the appellant submits that on concealment of facts regarding the pendency of an appeal before the Federal Service Tribunal (FST), the injunctive order by filing a suit was obtained despite the fact that the respondent No.2 being a Civil Servant cannot exhaust original/civil/jurisdiction of this court in view of the Bar under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. It is further submitted that in view of the Provisions of the Act, the Respondent No.2 is deemed to be in Service of Pakistan and service could be regulated in terms of regulations, which cannot not be avoided.

Since Malik Naeem Iqbal advocate has appeared in pursuance of a notice, submits that this question of maintainability was never heard and decided by the learned Single Judge as such anyone would be deprived of a right of appeal if this would be agitated now and he conceded if an issue in this regard be framed and matter be referred to the learned Single Judge for its expeditious disposal preferably during vacation he would assist learned judge. In view of the above, this appeal is disposed of with the direction that the question regarding the maintainability of suit and also regarding the merit of injunctive order being obtained in presence of Section 13 of the National Highway Authority Act, 1991 and the Regulations framed thereunder read with Article 212 of the Constitution of Islamic Republic of Pakistan, 1973.

Malik Naeem Iqbal further submits that these questions have already been resolved in Mobino-us-Salam case and in this regard he is willing to assist the learned Single Judge. With the above understanding the appeal is accordingly disposed of.

JUDGE

JUDGE

Amjad