

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

**Present:**

Nadeem Akhtar, J  
Yousuf Ali Sayeed, J

**HCA No. 289 of 2023**

Institute of Business Administration & others.....Appellants

Versus

Hammad Sarfraz.....Respondent

Muhammad Vawda, advocate, for the Appellants.

Bilal Ahmed Khan, advocate, for Respondent.

Date of hearing : 11.10.2023

**ORDER**

**YOUSUF ALI SAYEED, J.** - The captioned Appeal has been preferred against an Order made by a learned Single Judge on 22.08.2023, whilst seized of CMA No.12075/2023 (the “**Subject Application**”) filed by the Respondent No.1 in his capacity as the plaintiff in Suit No.1158/2023 (the “**Suit**”) pending before this Court on the Original Side.

2. As it transpires, the Respondent is a lecturer at the Institute of Business Administration, Karachi, arrayed in the underlying Suit as the Defendant No.1, with its Executive Director and Director Human Resources being impleaded as the Defendants Nos. 2 and 3, and with those parties having jointly come forward in the same sequence as the Appellants in the present matter.

3. Proceeding with his submissions, learned counsel for the Appellants pointed out that prior to the filing of the Subject Application, three other applications under Order 39, Rules 1 and 2 CPC had been filed by the Respondent in the Suit. Of those, CMA No.10425/2023 and CMA No.10426/2023 had been filed at the outset of that proceeding, seeking to restrain the Appellants from taking any adverse/coercive action against the Respondent in relation to any inquiry or investigation and from publishing defamatory contents against the respondent respectively. Subsequently, CMA No.11062/2023 had also been filed wherein it was prayed that an inquiry initiated against the respondent be suspended, albeit that there was no corresponding prayer in the Suit in that regard. Per learned counsel, that application thus fell beyond the pale of the Suit. It was pointed out that all three of the aforementioned applications had been heard and disposed of on 10.08.2023, with it being held that the Respondent was to be proceeded against in terms of the Appellant No.1's Anti-Harassment Policy of December, 2019, and the Protection against Harassment of Women at the Workplace Act, 2010. Our attention was drawn to the operative part of that Order, which reads as follows:

*“After hearing arguments of learned counsel for the parties, following order is passed\_*

1. *Statement is filed today by learned counsel for the plaintiff along with title page showing that a case is pending before the learned Provincial Ombudsman Sindh and it would be appropriate that Defendant No.1 – IBA should replace Dr. Qazi Masood by some other Faculty Member.*
2. *Plaintiff shall be proceeded against in terms of the Anti-Harassment Policy of December, 2019 (supra) and the Protection Against Harassment of Women at the Workplace Act, 2010.*

3. *Defendants shall ensure that no defamatory material is posted or circulated against the plaintiff either in connection with the pending inquiry or otherwise, which is tainted with injurious falsehood.*

*With the above directions, both injunction applications-C.M.A. Nos.11062 and 10425 of 2023, stands disposed of and earlier ad-interim order stands modified.*

*In terms of the above order, this application-C.M.A. No.10426 of 2023, is also disposed of.”*

4. It was submitted that the Respondent had then filed the Subject Application, wherein he had prayed that the Appellants be restrained from conducting/proceeding with a meeting dated 24.08.2023, as mentioned in an Email dated 18.08.2023, or any other such meeting, thus essentially seeking that the enquiry proceedings envisaged in the Order of 10.08.2023 be stayed. It was argued that this was a completely mala fide step, opposed to that earlier Order, hence ought not to have been countenanced let alone dignified by the learned Single Judge.
5. Conversely, it was argued on behalf of the Respondent that the Subject Application was necessitated as the actions taken by the Appellants subsequent to the Order made on 10.08.2023 were contrary to what had thereby been mandated. It was submitted that the Respondent had raised an objection regarding the composition of the inquiry committee whilst alleging bias on the part of one of its constituents, which, per learned counsel, he was entitled to do in terms of the Anti-Harassment Policy of December, 2019, however his request remained unheeded and a hearing had been hurriedly fixed on 24.08.2023, and the Respondent notified thereof vide email on 18.08.2023. It was argued that the Subject Application was maintainable under such circumstances.

6. We have heard the arguments advanced in the matter, bearing in mind that the impugned Order is of an ad-interim nature, as while ordering that notice of the Subject Application be issued to the Appellants for 05.09.2023, the learned Single Judge had directed that “Meanwhile the defendants may act upon subject but shall not pass final order / report, till the next date of hearing.” Remaining cognizant of that fact, we had asked learned counsel as to the further developments that had since taken place in the Suit, and were informed that the Subject Application was ripe for hearing and set to come up for such purpose on 18.10.2023.
  
7. As such, we are of the view that it would be appropriate to allow the parties to contest the Subject Application before the learned Single Judge, hence consciously refrain from making any comment as to the scope of the Subject Application and whether the same falls within the parameters of the Suit so as to be maintainable or not, or any observation as to whether the conduct of the Respondent constitutes an abuse of process. Needless to say, such matters would fall to be determined by the learned Single Judge whilst deciding the Subject Application, in light of the overall scope of the Suit and proceedings that have taken place therein to date, and are sanguine that would be made expeditiously, without any undue delay, preferably on the next date.
  
8. The Appeal stands disposed of in the foregoing terms.

JUDGE

JUDGE