

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No.2652 of 2024

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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1. For order on Misc. No. 14934 of 2024.
2. For order as to maintainability of petition

10th July 2024.

Mr. Salahuddin Khan Gandapur, Advocate for the Petitioner along with the Petitioner present in person

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1. Urgency granted.
2. On the last hearing date, the Petitioner, Mr. Habib Ahmed, was present in person and directed to satisfy the Court about the petition's maintainability. The learned counsel for Petitioner submits today that on 13.05.2024 around evening time, when the Petitioner along with his family were seated on the chairs opposite AQ Khan Park Clifton, Karachi, he was approached by a person who identified himself as an employee of the contractor to whom he had grudgingly paid Rs.200 per chair for himself and his family. Thereafter, he was yet again approached by two other persons who also demanded payment from him for the same purpose. The incident culminated in the Petitioner lodging FIR No.226/2024 at P.S. Darakhshan, which complaint is currently under investigation. The Petitioner has sought orders from this Court, while exercising writ jurisdiction under Article 199 of the Constitution of Pakistan, to direct the Respondent No.2 ("Clifton Cantonment Board" / "CBC") to submit clarification under what law they have engaged contractors to collect money from the public; to declare the acts of such contractors contrary to law; to direct the police to arrest the unknown persons in the FIR; and to

provide protection to the public, etc. During the course of his submissions, the Petitioner's Counsel also informed the Court that the Petitioner had visited the concerned officer of CBC, who had empathized with him and expressed his inability to address the Petitioner's complaint and advised him that he (the Petitioner) seeks remedy from the Court.

The Petitioner has admittedly filed a criminal complaint through FIR No.226/2024, which is available on record (on page 15 of the Petition), and the investigation is underway. It would be proper for the law enforcement agencies to conclude their investigation and determine whether there has been any commission of the offences under the penal provisions of PPC alleged by the Petitioner in his criminal complaint. Moreover, the remedy available under the law already invoked by the Petitioner is to be exhausted, first, by the Petitioner before he can invoke constitutional jurisdiction. To this end, the Petitioner's prayer clauses (b) and (c), as set out in the Petition, are premature and do not merit any indulgence at this stage under writ jurisdiction.

With regard to the prayer seeking Orders from the Court to direct CBC to provide clarification, the same is also not maintainable for the reason that the Petitioner has neither cited the precise provision of law breached by CBC nor identified any specific right which has been violated under the Constitution by the Respondents, including CBC. Additionally, the Petitioner has sought declaration, which relief cannot be granted by this Court while exercising writ jurisdiction. This Court cannot enter into an enquiry of facts as to the allegations made by the

Petitioner against unidentified contractors, whether or not they have committed any unlawful act(s). Further, the identity of the contractors is not disclosed in the Petition.

There are no grounds to call for any indulgence from this Court in favor of the Petitioner. Even otherwise, the Petition is vague and missing material information regarding the cause alleged by him. No case is made out to attract any interference under Article 199 of the Constitution of Pakistan. Accordingly, the Petition is dismissed herewith.

JUDGE

JUDGE