

Order Sheet
IN THE HIGH COURT OF SINDH,
BENCH AT SUKKUR

Const. Petition No.D-1435 of 2023
(*Mst. Iqra Bibi & 09 others v. P.O. Sindh & others*)

Date of hearing	Order with signature of Judge.
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Hearing of Case

- 1.For orders on office objections
- 2.For hearing of main case

18-09-2024

M/s Mehfooz Ahmed Awan & Ateeq Rehman Shaikh, Advocates for petitioners.

Mr. Zulfiqar Ali Naich, Assistant A.G a/w Dr. M.B. Raja Dharejo, Deputy Commissioner, Sukkur.

The Deputy Commissioner, Sukkur is attempting to show that the petitioners were issued appointment letters during the period when Caretaker Government was in charge as well during the period, Elections were conducted. He also states that in Suit No.1493 of 2023 at Principal Seat, certain orders were passed on an undertaking having been given by learned Advocate General-Sindh that appointments made during above period and jobs provided through Walk-In-Interviews in the said period were declared null and void, where to the contrary case of the petitioners is that there was advertisement dated 18.05.2021 placed in the newspaper available at page-13 calling upon candidates to apply for various posts lying vacant with the respondent No.2/Department of Empowerment of persons with Disabilities Special Education, where entire process was completed before elections/caretaker period, where petitioners appeared in the examination, passed the interviews and upon providing check list by the Department, they were directed to open SAP IDs for release of their salaries, whilst muster rolls were also created, and they joined their duties and joining reports were given, and thereafter their service books were made. The entire process of the advertisement was done by the predecessor of the present Deputy Commissioner, Sukkur, namely, Dr. Shehzad Tahir Thaheem, who had declared the petitioners successful through letter dated 15.12.2022, therefore, to state that the

petitioners were appointed during election period or by the Caretaker Government is not correct statement of facts. In fact, the comments filed by respondent No.2/Regional Director, Department of Empowerment of Persons with Disabilities, Special Education, Sukkur admit that petitioners were appointed and their posting orders were issued. However, seemingly another meeting of the District Recruitment Committee, Sukkur Division took place on 09.05.2023, where inclusive of the petitioners, 10 more individuals were selected; however, through letter dated 04.08.2023, appointments of entire bunch of 18 candidates were withdrawn. Thereafter, on the same date another letter dated 04.08.2023 was issued to various departmental heads as well as present petitioners directing them to re-join their duties after completion of codal formalities.

2. As per comments filed by Deputy Commissioner, Sukkur today, at Principal Seat on 09.08.2023 issued injunctive order against certain appointments made during the election period and the said matter was disposed of, as stated above, by the order dated 29.06.2024 alleging that such appointments could prejudice the result of the elections. However, during hearing Deputy Commissioner admits that when petitioners were appointed for the posts of Cook, Naib Qasid, Driver, Sweeper, Watchman, Chowkidar, Conductor, Attendant and Gardener, their appointments is where close to affect the Electioneering process and he graciously states that if this Court passes any orders, the same would be complied with. This Court is also informed that through order dated 19.03.2024; a learned Divisional Bench of this Court in C.Ps.No.D-176 & 868 of 2023 has also held that any such orders in the above Suit will not come in way of this Court deciding petitions under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

3. After hearing all the parties, we are of the view that the petitioners only applied for the grades 1 to 4 posts, which are apparently non-technical also, raising from the lowest stratum of the society, who were initially appointed through DRC meeting held on 15.12.2022 and later on were further considered in the second DRC meeting held on 09.05.2023, however on 04.08.2023 they were

directed to re-join their services after completing codal formalities and orders passed in Suit No.1493 of 2023, are misconstrued to apply to the case of the petitioners, as orders passed in Civil Suits only bind the parties of the suit, where the petitioners were not even arrayed as a party, neither they are any stake holders for Electioneering process. This Court in C.P.No.868 of 2023 has already held that such order passed in Civil Suit cannot hinder this Court deciding matters under Article 199 of the Constitution. It is worth mentioning here that it was a learned Divisional Bench of the Court who while hearing C.P.No.D-124 of 2023 and after taking judicial notice of delays in filling of vacancies falling inter alia in BPS-1 to BPS-5, after having been provided detailed guidelines and SOP, dispose of above petitions by holding that in future all appointments of such nature in non-technical cadre be made through respective DRCs and DSCs as provided under Rule 11 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 and policy guidelines dated 26th April 2023, which issue was also decided in above terms vide order dated 03.05.2023 passed in C.P.No.D-424 of 2019.

4. In these circumstances, this petition is **allowed** with directions to the respondent No.2/Regional Director, Department of Empowerment of Persons with Disabilities Special Education, Sukkur to implement his order dated 04.08.2023 without being prejudiced by the decisions of Suit No.1493 of 2023, and treat the petitioners as newly appointed persons. All adversarial orders passed there to be considered as null and void. It is expected that no hurdles would be created in appointing the petitioners and efforts be made that all vacant posts in grades 1 to 4 would be filled expeditiously to pass benefits of State providence to the citizens of lower stratum, as per the terms petition No.D-124 of 2023 was disposed of. Let a copy of this order be supplied to the office of AAG for compliance.

JUDGE

JUDGE