

IN THE HIGH COURT OF SINDH, AT KARACHI

PRESENT:

**MR. JUSTICE AQEEL AHMED ABBASI
CHIEF JUSTICE
MR. JUSTICE ABDUL MOBEEN LAKHO**

C.P. No. D-5833 of 2023

Petitioner Abid Hussain Chandio
through Inayat Ali Mirza, Advocate

Date of hearing 07.12.2023.

Date of Order 07.12.2023.

ORDER

Abdul Mobeen Lakho, J. By means of this Constitutional Petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, the petitioner has prayed for following relief(s):-

- ...
- “A. That this Honorable Court may be pleased to declare that the PDMI & E Cell, Culture, Tourism, Antiquities & Archology Department is illegal and without any legal justification and is ultra vires to the constitution.*
- B. That this Honorable Court may be pleased to call the record and report from respondent No. 1 regarding the compliance and the implementation upon the Judgment dated: 22-04-2021 passed in the CP No. 6912 of 2020.*
- C. That this Honorable Court may be pleased to declare that the respondent No.8 is illegally and unlawfully holding the post and the respondent No.1 may be directed to remove him and initiate inquiry against him regarding his corruption and other illegal practices.*
- D. That the summary and record for moving the proposed amendment before the care-taker cabinet relating to the respondent department may be called and the record of the additional agenda may also be called.*
- E. That the creation of any cell with the name and style of Planning & Development Works Sindh may be declared as null, void, ab-initio and ultra vires to the constitution of Pakistan.”*
- ...

2. At the outset, we have asked the learned counsel as to how this Petition is maintainable as the Petitioner is seeking multiple relief[s] as reproduced supra which show that he is not an aggrieved person. Learned counsel submits that this *lis* is maintainable for the reason that petitioner is an aggrieved person working with Culture, Tourism, Antiquities and Archives Department, Government of Sindh as Assistant Director [BPS-17] being responsible for conservation, preservation and rehabilitation works related with the heritage building.

3. Learned counsel submits that this petition relates to the amendment in Sindh Government Rules of Business, 1986, relating to the Culture, Tourism, Antiquities & Archives Department during the period of Caretaker Government although, the respondents, have no apparent emergency under which such amendment could be made, however, they are actually forming a new cell under which all the four wings would be grouped under the one cell which would be called as Directorate of Planning & Development Works Sindh. Learned counsel's emphasized that actually the proposed amendment in Rules are just an eye-wash, but in fact the induction of new Department, through additional agenda without getting its approval, under the name 'Planning & Development Works Sindh' under which the respondent department could cover their illegal practices and they can bypass all four wings as all four wings are independent and after the said amendment, the Department can easily bypass its wings during the works relating to the wings and this illegal Department would fulfill the illegal demands of blue-eyed boys of the Department. Learned counsel argued that the petitioner apprehends that the Department after the approval of the said proposed amendment will ignore all the four wings, and thereafter the works relating to the wings would be carried out by the non-technical person, moreover, such amendments would also become the smooth gateway of the corruption. He further submits that, on 6th November 2023, the Department has moved a letter, wherein the summary regarding the *amendment in Sindh Government Rules of Business* has

been moved to the concerned officials for the approval of same and to be passed by the cabinet during the period of this caretaker Government. In the summary, the Department has attached the propose amendment in the schedule (1) and (II) of Sindh Government Rules of Business 1986. Learned counsel further submits that that the respondent department without placing the said agenda before the caretaker cabinet showed the said additional agenda as approved through the caretaker cabinet and the department has moved such summary during the period of caretaker Government, which is not justifiable and in the summary, the department has not mentioned the urgency or any reason wherein they could cover their hunger upon but just to retain ulterior motives behind the said amendments. Learned counsel argued that the petitioner is a senior most officer in Directorate of Conservation, those who were appointed with him in Culture wing are now serving as Director (BS-19) since 2021, whereas the petitioner's promotion of Deputy Director (BS-18) is still pending since 2021. Learned counsel lastly argued that the Respondent No.8 (Mr. Roshan Ali Kanasiro) is holding the charge of Director PDMI&E Cell and additional charge of Resident Director and is all in all in the Department and through this illegal cell he is controlling the whole Department. The Department is under his influence though the said cell which has not been approved through any cabinet or even not supported by any law.

4. Heard the Counsel and perused the record. In evaluating the Petitioner's claim challenging the proposed amendment in the Sindh Government Rules of Business, 1986, relating to the Culture, Tourism, Antiquities & Achieves Department, it is our firm view that the Petitioner lacks the status of an 'aggrieved person'. The crux of his arguments revolves around a speculative scenario rooted in a hypothetical situation, specifically the Government allegedly introducing additional agenda item without prior Caretaker Cabinet review. It is crucial to point out that this contention rests on conjectures only and

lacks any direct and adverse effect on the petitioner and further lacking the necessary foundation for challenging the proposed amendment. It is also essential to recognize the Government inherent duty to formulate and amend Rules within its respective Departments. The Petitioner's apprehension regarding the Government prerogative actions, such as introducing agenda item without Cabinet approval, needs to be scrutinized in the light of absence of factual instances supporting these claims. Consequently, only stance against the Petitioner's view is grounded in the assertion that his concerns are speculations and lack the requisite foundation confer upon him the status of an aggrieved person.

5. In a legal and procedural context the term '**aggrieved person**' denotes a person who has suffered a legal grievance, against whom a decision has been pronounced which has wrongfully deprived him or wrongfully refused to him something which he was legally entitled to. There is wisdom in the use of word "aggrieved" appearing in Article, 199 of the Constitution, because it helps in checking litigation for the sake of litigation by those, who may not be aggrieved. So that Courts are confronted with real questions, which should occupy their attention and not questions, which are of an academic nature involving political issues and where the issuance of a writ is a mere futile exercise. Person aggrieved invoking constitutional jurisdiction under Article 199 must establish a direct or indirect injury to himself and substantial interest in subject matter of proceedings. Further for the purpose of issuance of writ of Quo warranto and habeas Corpus, being aggrieved is not mandatory requirement. More so the apex court also laid down guidelines to distinguish those cases in which petitioners under the garb of public interest litigation actually accumulate dump of frivolous litigation to seek publicity or in accomplishment of personal agenda/ vendetta. Such litigation must be laid to rest at very inception on account of maintainability. Public interest litigation is a weapon which has to be used with great care and circumspection and we have to be extremely

careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and or publicity seeking is not lurking.

6. It appears from the record that Summary for Chief Minister Sindh dated 6th November 2023 was moved by the Secretary to Government of Sindh wherein the Culture, Tourism, Antiquities & Archives Department, Govt. of Sindh had prepared a draft for amendment in Schedule I and II of the Government of Sindh Rules of Business 1986 and the same were placed in the Cabinet Meeting for its approval. In this regard, we are of the considered view that neither the petitioner is an aggrieved person nor he has any *locus standi* to challenge the 'proposed' amendment in Sindh Government Rules of Business. So far as other relief[s] sought by the petitioner are concerned, the learned counsel has failed to satisfy us as to issuing a writ. The requested actions do, in fact, come within the purview of Legislature or the Executive, depending on the situation. The petition was, thus, misconceived, hence dismissed in *limine*.

7. Foregoing are the reasons for our short order dated 07.12.2023, whereby we had dismissed this petition in *limine* and these are the reasons thereof.

J U D G E

CHIEF JUSTICE