

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

MR. JUSTICE AQEEL AHMED ABBASI, CJ

MR. JUSTICE ABDUL MOBEEN LAKHO, J

C.P.No.D-5818 of 2023

*Shahbaz AliVs.....Province of Sindh
& another*

Date

Order with Signature of Judge

- 1.For orders on CMA No.2125/2024.
- 2.For orders on CMA No.2122/2024
- 3.For orders on CMA No.29099/2023
- 4.For hearing of CMA No.27116/2023
- 5.For hearing of main case.

26-01-2024:

M/s. Malik Naeem Iqbal and Talha Abbasi, Advocates a/w Petitioner.

Mr. Saifullah, A.A.G.

Mr. Fakir Muhammad Lakho, Additional Secretary (J&E), College Education Department, Mr. Ihsanullah Laghari, Focal Person (Judicial), College Education Department and Mr.Mustafa Kamal, Regional Director Colleges, Karachi, Government of Sindh are present in person.

ORDER

1. Through instant petition, the petitioner has sought following relief: -

i. Declare that the letter, dated 27.11.2023, illegal/arbitrary/mala fide and to set aside the same; is absolutely

ii. Declare that the petitioner, being an officer of the College Education Department is lawfully entitled to official accommodation;

iii. Permanently restrain the respondents from taking any adverse/coercive action against the petitioner on the basis of the impugned letter dated 27.11.2023;

iv. Grant any further/additional relief(s) as this court may deem proper in the circumstances of the case; and

v. Grant costs of the petition.

2. Contention of the learned counsel for the petitioner was recorded in the order dated 01.12.2023 in the following terms: -

3-4. Through instant petition, the petitioner, who is an employee in BPS-18, as Deputy Director, Directorate of College Education, Karachi against an existing vacancy and was allotted official accommodation vide Office Order dated 21.07.2023 issued by Directorate of College Education, Karachi Region, Karachi, who was duly authorized by the Government of Sindh, College Education Department vide letter dated 19.07.2023 has impugned letter dated 27.11.2023 issued by the Government of Sindh College Education Department addressed to the Regional Director Colleges, Karachi Region, Karachi, whereby, the earlier letter dated 19.07.2023 regarding permission of allotment of residence quarters situated at Khatoon-e-Pakistan, Government College for Women Karachi has been withdrawn, whereas, further directions have been issued to the Regional Director Colleges, Karachi to cancel the allotment of said residence quarters allotted to employees of Regional Directorate Colleges, Karachi and others with immediate effect and vacate the said residence quarters situated at Khatoon-e-Pakistan, Government College for Women Karachi within 15 days under intimation to the Department. According to learned counsel for the petitioner, neither any reason or ground has been given, while issuing the cancellation letter dated 19.07.2023, nor there is any lawful justification for issuance of directions to cancel the allotment letter, which were otherwise given as per policy and pursuant to authorization and permission given by the then Secretary of the Department. According to learned counsel for the petitioner, the petitioner's wife namely, Mrs. Mahreen Wahid Chaang is also an Assistant Professor in BPS-18 and also

entitled for official accommodation, therefore, it has been prayed that either the operation of impugned letter may be suspended or protection may be provided to the petitioner to occupy official accommodation, while issuing directions to the respondents not to cancel such allotment.

Let pre-admission notice be issued to the respondents as well as A.A.G. to be served through first three modes for 14.12.2023, when reply/comments shall be filed with advance copy to learned counsel for the petitioner. In the meanwhile, operation of the impugned letter dated 27.11.2023 to the extent of paragraph 2 shall remain suspended till next date of hearing.

3. However, during pendency of instant petition, it has transpired that the Respondents have recently formulated a policy through Notification dated 11.01.2024, issued by College Education Department, Government of Sindh, whereby, with the approval of competent authority, the policy governing allotment of Residential Bungalows, Quarters and Hostels of the College Education Department, Government of Sindh has been notified and under Clause 5(x) following guidelines have been issued:-

“5(x) Teachers Hostel in Girls Colleges:-
Teachers Hostels situated in Girls Colleges shall be allotted to the female teaching staff of the same college. In case, female teaching staff of same college is not availing the facility then, shall be allotted to the female teaching staff of other colleges. The hostel is for the single person accommodation; hence; the allottee shall not stay his/her family member in the hostel.”

4. It is however, observed that the petitioner was allotted the subject accommodation prior to the framing of such policy,

whereas, it has also come on record that the petitioner, being an Officer of Education Department i.e. Teaching Staff (Assistant Professor), is residing in the subject accommodation along with his family, whereas, his wife is also working on detailment as Assistant Professor in the same college. It has been further informed that an inquiry was initiated with regard to accommodation of the petitioner, which was based on some Social Media News, however, nothing has been placed on record to show that petitioner has caused any nuisance or harassment whatsoever to the students, nor any complaint to this effect has been brought on record, respondents could not satisfy the Court that prior to aforesaid policy there was any other written policy, nor could establish that the petitioner has been allotted subject accommodation in violation of any law, rules and policy.

5. The grievance of the petitioner to effect that he is being single-out malafide on extraneous consideration appears to be correct, whereas, as per learned counsel for the petitioner, under similar circumstances male teachers have been given accommodations in the colleges all over the Province of Sindh, whereas, certain material has also been produced to support such contention, which in fact has not been denied by the officials present in Court. It has, however, been submitted that in order to avoid any untoward incident and give complete privacy and protection to the girls against any possible harassment or inconvenience to the girls, who are living in the Hostels, such policy has been formulated. It has been, however, submitted by the official respondents present in Court that there is personal

grudge or malafide on the part of the respondents against the petitioner to this effect.

6. Be that as it may, we are of the opinion that policy formulated can be applied prospectively, however, without any discrimination, in respect of all the colleges throughout Province of Sindh, and no officer, including the petitioner, can be discriminated while applying the policy retrospectively.

7. Accordingly, instant petition is disposed of with the directions that the Respondents shall not take any adverse action pursuant to recommendations as contained in the inquiry, which has been impugned through instant petitioner, however, may apply such policy without any discrimination, and in case of any violation thereof, the aggrieved party, including the petitioner, will be at liberty to agitate the same before proper forum / Court of jurisdiction in accordance with law.

8. Instant petition in the above terms stands disposed of alongwith listed applications.

CHIEF JUSTICE

JUDGE

Farhan/PS
nasir