

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-5113 of 2023

(*Hamid-uz-Zafar v Province of Sindh & others*)

Date	Order with signature of Judge
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul_Karim Memon

Date of hearing and judgment: 18.12.2024

Mr. Muhammad Nishat Warsi advocate for the petitioner.

Mr. Ali Safdar Depar, Assistant AG

ORDER

ADNAN-UL-KARIM MEMON, J: The petitioner, a former MPA, was nominated for the Provincial Local Government Commission in 2021. However, his salary was stopped in October 2023 without any prior notice or explanation. The petitioner submits that this action violates the principles of natural justice and Article 25 of the Constitution.

2. The court asked the petitioner's lawyer to explain the legal basis for challenging the salary stoppage, given that the petitioner's term as an MPA ended in 2022.

3. The learned counsel for the petitioner argued that the Petitioner was elected as Member Provincial Assembly (MPA) in the year 2018 from PS-93 and continued till the expiry of the period of assembly in 2022; however in the intervening period he was nominated for the membership of Provincial Local Government Commission by the Opposition leader vide letter dated 08th April 2021 and notified for the period of four years vide notification dated 10.3.2022, however without releasing salary without show cause notice. He argues that the salary of the petitioner was stopped without any notice or hearing, which violates his constitutional rights and the rules governing the Commission. He next contended that The petitioner assumed the role of Commission Member in March 2022 and their perks and privileges were officially recognized in December 2022. He next contended that his four-year term on the Commission, as specified in the Sindh Local Government Act 2013, can only be terminated through a specific procedure outlined in the Sindh Local Government Act 2013 and Provincial Local Government Commission (Conduct of Business) Rules, 2017, which includes a notice and a hearing. As his term has not yet expired with effect from the date of his appointment dated 10.3.2022, he added that the stoppage of his salary is unjustified and requested this court to intervene and direct for release of his salary of the intervening period.

4. Conversely, the learned Assistant Advocate General has opposed this petition on the ground that the basic membership of the petitioner

expired in 2022, therefore, the question of salary does not arise. He added that the petitioner's term on the Commission ended with the dissolution of the Provincial Assembly. However, at this stage, the petitioner's lawyer countered that the Commission appointment was for a fixed four-year term, independent of the Assembly's dissolution.

5. We have heard learned counsel for the respective parties and have minutely perused the record.

6. The issue for determination is whether the petitioner's four-year term on the Provincial Local Government Commission, initiated in 2022, continues despite the dissolution of the Provincial Assembly in 2022, and if he is entitled to salary during this period.

7. Section 119 of the Sindh Local Government Act, 2013, primarily deals with the establishment and composition of the Provincial Local Government Commission. It outlines that the Commission shall consist of the Minister for Local Government, who serves as the Chairman, and two members of the Provincial Assembly of Sindh, nominated by the Leader of the House and the Leader of the Opposition. However, it does not explicitly address the tenure of members or the implications of the dissolution of the Provincial Assembly on their positions. Besides, Rule of the Provincial Local Government Commission (Conduct of Business) Rules, 2017, do not directly address the issue of a member's tenure or the impact of the Provincial Assembly's dissolution. It primarily outlines serving of notice and hearing before removing members. The Commission's rules do not address the salary issue for former MPAs on the Commission. As MPAs are already public servants with salaries. The court cannot decide if the former MPA can claim additional salary for their role on the Commission as the rules do not provide clear guidance on this matter.

8. Petitioner has thus failed to make out his case for the indulgence of this Court under Article 199 of the Constitution at this stage. Consequently, the instant Petition stands dismissed along with the listed applications. However, the Petitioner may avail the appropriate remedy as provided to him under the law.

JUDGE

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