

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI



Before:

Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D –1160 of 2021

Syed Ali Mumtaz Zaidi

Versus

Government of Sindh and 03 others

Date of hearing &
Decision : 17.02.2021

Mr. Tariq Hussain, advocate for the petitioner.

ORDER

ADNAN-UL-KARIM MEMON, J. – This petition is directed against the policy decision of the Government of Sindh vide notification dated 10.11.2020, whereby the petitioner was allowed the charge of the post of Managing Director of Zulfiqarabad Development Authority (ZDA) for 03 months.

2. Learned counsel states at the bar that the petitioner has just retired from the post of Managing Director/Additional Chief Secretary (BS-21) Zulfiqarabad Development Authority, and the petitioner has to undertake various fundamental works being M.D. of ZDA as disclosed in paragraph 3 of the memo of the petition, however, due to short period, he could not carry out his assignments, for which he needs one complete year to accomplish the target. Per learned counsel, the competent authority was approached for extension of his tenure, but to no avail till date, compelling him to approach this Court for direction to the respondents for allowing him to continue with the same assignment/charge of the post for one year as per notification dated 13.10.2020.

3. Upon query by this Court as to how the instant Petition is maintainable under Article 199 of the Constitution against the notification dated 10.11.2020, whereby he was only assigned/allowed the charge of the post of Managing Director of ZDA for three months, which period stood expired by efflux of time.

4. Learned counsel reiterated his submission as discussed supra and further argued that in pursuance of the approval of the competent authority/Chief Minister Sindh, he was appointed as Vice Chairman, Zulfiqarabad Development Authority on the contract basis for one year which period has not yet expired, therefore, he can continue with the said assignment and charge of the post of



Managing Director of ZDA for the period as provided in the notification dated 13.10.2020 as the stopgap arrangement in the public interest.

5. We are not impressed with the submission of learned counsel for the petitioner for the simple reason that the competent authority/Chief Minister Sindh being the Chairman of the Governing body of ZDA was competent to appoint any member as Vice Chairman of the Governing body in his discretion as provided under section 5(IA) of the Act 2016.

6. The issue is about the continuity of the petitioner in the capacity of Chairman of the Governing Body, ZDA, and his subsequent assignment/charge of the post of Managing Director, ZDA, for which the competent authority has to decide under law, thus no indulgence of this Court is required. *Prima facie*, we do not see any public interest involved in these proceedings to continue with this *lis* under Article 199 of the Constitution.


7. In view of the above discussion, the petition is not maintainable either on facts or in law and is liable to be dismissed with costs.

8. However, before parting with this case, it may be observed that every person has a right to approach a Court of law for redressal of his grievance, whether such grievance is against a private party or a public functionary. Article 199 of the Constitution restricts such right only to an aggrieved person, as contemplated in the said Article, who is aggrieved by any action or order of a public functionary or department or the Provincial or Federal Government. The present petitioner filed this petition seeking a relief to which he was not entitled under the law.


9. In the light of the above facts and circumstances of the case, the instant petition is dismissed along with the listed application(s) with costs of Rs. 10,000/- (Rupees ten thousand only) to be deposited by petitioner with the Nazir of this Court within thirty (30) days from today which amount shall be paid forthwith by the Nazir to High Court Clinic.

10. These are the reasons for our short order dated 17.02.2020 whereby we have dismissed the instant petition with costs.

Dated: 17.02.2021



JUDGE



JUDGE

Nadir*