

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

C. P. No. D-1157 of 2010

Present:Mr. Justice Muhammad Iqbal Kalhoro &
Mr. Justice Fahim Ahmed Siddiqui.

Mr. Altaf Hussain Surahio, advocate for the petitioners.

Mr. Shafi Muhammad Chandio, Additional Advocate General.

Date of hearing : 08-03-2018

Date of judgment : 08-03-2018

ORDER

MUHAMMAD IQBAL KALHORO-J:- By means of this petition, the petitioners are seeking their appointment in Govt. Primary Education Development Project supported by Asian Development Bank on the ground that they in response to the advertisement published in daily "*Kawish*" Hyderabad dated:08.05.2004, had applied for the said posts and appeared in the interview, where they qualified but the said process was cancelled. Again the same posts in the said project were re-advertised. The petitioners resultantly appeared in the interview and qualified but were not appointed.

The record reflects that instant petition along with several other petitions was disposed of by this court vide judgment dated 08.07.2011 but thereafter, learned counsel for the petitioners filed an application under Rule 5 of Sindh High Court Benches Rules at Circuit Court Larkana for transfer of this petition to Principal Seat at Karachi on the ground that this petition was wrongly disposed of along with other petitions although the facts of this petition were different. Resultantly judgment dated 08.07.2011 was recalled by the same bench which had passed the said judgment and this petition was sent back to this Circuit Court for hearing afresh as per roster.

We have heard the learned counsel for the petitioners. He has reiterated the same facts mentioned in the petition.

On the other hand, learned Additional Advocate General has drawn our attention to the comments filed by respondents No.1 and 2 stating specifically that in the said project viz. Girls Primary Education Development Project supported by Asian Development Bank, no doubt the interviews were

conducted for different posts but the same could not be finalized. Meanwhile the project's life expired and was closed down. Hence no posts for the petitioners' appointment in the said project are available. With regard to the allegations of the petitioners that some other candidates were appointed in the said project ignoring them and that it amounts to discrimination against them, it has been stated that no one in the above mentioned project was appointed by the Education Department and the appointments referred to by the petitioners were made through a proper procedure and were in general cadre of Education Department against the permanent posts duly sanctioned by the government. But in the said process of recruitment, the petitioners did not apply. Learned Additional Advocate General has further informed that said project had expired in the year 2012 and, therefore, the petition has become infructuous.

We have seen the order dated 25.02.2016, wherein the same facts have been recorded and when learned counsel was confronted with such facts, he sought time on the ground of obtaining instructions from his clients. Today learned counsel for the petitioners has tried to impress upon us that some discrimination was caused to the petitioners and at their place some other candidates were appointed in the said project thereby injuring the fundamental rights of the petitioners. However, he has not been able to refer to any material in this regard to support his contentions. There is nothing on record either to suggest that the interview the petitioners had allegedly appeared in for the appointment as primary school teacher in the subject project, were finalized and some candidates were appointed so as to give rise to a presumption of the petitioners being discriminated against. Learned counsel for the petitioners has not been able to satisfy us as to when the entire project was closed in the year 2012, which he has not denied, how this petition could be maintained by the petitioners for their appointment in the said project. This being the position in our estimation, this petition is devoid of merits and is accordingly dismissed.