

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

C.P.No.D-1038 of 2015

Date of hearing	Order with signature of Judge
-----------------	-------------------------------

For hearing of main case.

Before:**Mr. Justice Muhammad Junaid Ghaffar****Mr. Justice Syed Irshad Ali Shah**

Date of hearing: 04.08.2020.

Date of Order: 04.08.2020.

Mr. Ashfaq Hussain Abro, Advocate for the petitioner.

Mr. Liaquat Ali Shar, Additional Advocate General, Sindh

None for the private respondents.

~.~.~.~.~.~.~.~.~.~

IRSHAD ALI SHAH, J.- The petitioner by way of instant constitutional petition has prayed for the following relief(s):-

- “a) Declare the act of respondent No.1 for not issuing/announce the final result of viva-voce of the petitioner, and issued appointment orders in favour of illegal and not eligible persons to be illegal, unlawful, based on malafides, without lawful justification and discriminatory, as the petitioner had qualified in all the requisite tests.
- b) Direct the respondents, particularly the respondent No.1 to issue final result of viva-voce, thereafter, if petitioner found successful then appointment order in the name of petitioner be issued, without any further loss of time.

- c) Further be pleased to direct the respondents to bring all the relevant record regarding the appointments.
- d) Award costs of the petition
- e) Grant any other equitable and adequate relief in view of the above stated facts and circumstances of the case."

47

2. The facts, in brief necessary for disposal of instant constitutional petition, are that Anti Corruption Establishment Sindh, invited applications for recruitment of the suitable candidates for the posts of Technicians, Assistant Sub-Inspector and Junior Clerks. The petitioner applied to be obtained for the post of Assistant Sub-Inspector (ASI) and qualified physical and written test(s). Consequently, he was called for interview but result whereof as per him was not announced. Subsequently, the person(s) who as per him never appeared in physical or written test(s) were appointed. It was in these circumstances, the petitioner has maintained the instant constitutional petition before this court, for the relief, as is detailed above.

3. It has *inter-alia* submitted by the official respondents in their para-wise comments that the petitioner could not be appointed as he failed to clear the interview and person(s) who cleared the test and interview were appointed. By submitting so, they sought for dismissal of the instant constitutional petition.

4. It is contended by learned counsel for the petitioner that no result of the interview so conducted was announced by the

1 7

official respondents, therefore, appointment of the private respondents, was illegal. By contending so, he sought for issuance of direction against the official respondents to declare the result of the interview and to appoint the petitioner as Assistant Sub Inspector (ASI) in Anti-Corruption Establishment, Sindh.

5. It is contended by learned Additional Advocate General that the private respondents have been appointed by Anti-Corruption Establishment Sindh, in a very transparent manner after observing all the requisite formalities, the petitioner could not be appointed as he could not qualify the interview. By contending so, he sought for dismissal of the instant constitutional petition as same according to him has been filed without any lawful justification and petition on similar facts and circumstances titled "Munir Ahmed Jatoi and 3 others v. Director, Anti Corruption Establishment Karachi and 8 others (2020 PLC {C.S} 407) has already been dismissed by this court and such dismissal is maintained by the Hon'ble Supreme Court of Pakistan, in Civil PeitionNo.71-K of 2019.

6. We have considered the above arguments and perused the record.

7. The petitioner has claimed that persons, appointed by the official respondents, were ineligible as they have never appeared in required written or physical test and interview, hence their

appointments is illegal. Such claim the petitioner has not been able to substantiate adequately. In that situation the legality of the appointment of the person as Assistant Sub Inspector (ASI) other than the petitioner having qualified the interview or otherwise, involving factual controversy cannot be determined by this court in exercise of its constitutional jurisdiction.

8. Prima facie, the petitioner has failed to make out a clear case of infringement of his right or establishing malafide on the part of official respondents in following the recruitment procedure which is sufficient for dismissal of the instant constitutional petition. It is dismissed accordingly with no order as to costs.



JUDGE



JUDGE