

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP D 4355 OF 2024
CP D 4407 OF 2024

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

28.03.2025

Mr. Usman Farooq, Advocate for the Petitioner
Mr. M.S. Anjum, Advocate for the Petitioner

Mr. Jawad Dero, Advocate General Sindh
Mr. Sandeep Malani, Assistant Advocate General Sindh

Mr. Muhammad Nawaz Sohoo; Secretary, S, GA&C Department
Mr. Ghazanfer Ali Abbasi; Deputy Secretary, Board of Revenue
Mr. Akhter Ali Mastoi; Board of Revenue

An inter-departmental communiqué, dated 03.09.2024 (“Impugned Letter”), was addressed by the S, GA&C Department to the Finance Department, pertaining to the allocation of budget and procurement of vehicles for Assistant Commissioners in Sindh. The petitioners, individuals including a member of the Sindh Assembly, assailed the Impugned Letter in these petitions and on the very first date obtained *ad interim* orders suspending the operation thereof. Consequently, the entire endeavor for replacement of vehicles, for public functionaries, was suspended and the restraint remained in force till today.

At the very onset, learned counsel for the petitioners were confronted as to maintainability of these petitions.

Mr. Usman Farooq Advocate stated that the Impugned Letter was contrary to the law, rules and policy, hence, ought to be quashed. Upon being requested to identify any law, rule and / or policy being offended by the Impugned Letter, he remained unable to assist. Perusal of the record filed with the memorandum of petition¹ demonstrated that no law, rule and / or policy was annexed and in addition to a copy of the Impugned Letter, the only inclusions were a purported press report, devoid of any apparent annotation demonstrating the source thereof, and copy of a chapter, from an unidentified publication, regarding inflation.

Upon being asked to assist the Court with respect to the *locus standi* of the petitioners, learned counsel submitted that the petitioners are citizens of Pakistan and include a Parliamentarian, hence, entitled to maintain the petitions. Upon being asked to befall the petitioners within the definition of aggrieved persons, as contemplated per Article 199 of the Constitution, learned counsel remained unable to do so, however, insisted that the qualification was unnecessary since these were public interest petitions.

¹ In the lead petition, being CP D 4355 of 2024; stated to be representative of the facts and relied upon in the interim order rendered in the connected latter petition.

The learned Advocate General Sindh sought to demonstrate that the petitions are misconceived, devoid of merit, hence, ought to be dismissed forthwith. It was articulated that the present petitions masquerade as public interest litigation, however, they appear to be motivated by private interest and publicity. On the said touchstone, he sought for the petitions to be dismissed and placed reliance of the Supreme Court edict reported as 2018 SCMR 365.

On the factual plane, learned Advocate General stated that the subject allocation was a constituent of a scheme; constituent of the Finance Act. He submitted that since the Finance Act was already in force, therefore, no case was made out to impugn the implementation of a constituent thereof. It was added that this is a matter of budgetary allocation / policy² and no nexus of the petitioners therewith and / or infringement of any right of the petitioners thereby has been demonstrated.

Mr. Dero stated that transportation / conveyance is an integral requisite for the functioning of Government and the last *pari materia* procurement took place in 2010 / 2012. He stated that irrespective of the fact that the last such acquisition was fifteen years ago, the efficient operational life of such vehicles ceilings at about 200,000 kilometers, however, the said vehicles have been operated for than four times of the said quantum. He concluded that the restraint imposed vide the *ad interim* orders herein amounted to final relief at the interim stage³; without even addressing the maintainability and merit of the claim.

Heard and perused. Article 199 of the Constitution contemplates the discretionary⁴ writ jurisdiction of this Court and the said discretion *may* be exercised upon invocation by an aggrieved person⁵ and in the absence of an adequate remedy. The petitioners' counsel failed to make any case before us to qualify the petitioners within the definition of an aggrieved person⁶. Even otherwise the allegations levelled⁷, albeit *prima facie* bald and unsubstantiated, could not be entertained in any event as adjudication of disputed questions of fact, requiring detailed inquiry, appreciation of evidence etc., is unmerited in writ jurisdiction⁸.

In so far as the issue of public interest litigation is concerned, we have been assisted with no reason to disagree with the assertion of the learned Advocate General Sindh that the present petitions appear to be an attempt to seek publicity, without any justifiable cause of action. Per settled law, public interest litigation ought not to be aimed at seeking publicity and the law requires the Court to ascertain whether the supplicant is acting in a *bona fide*

² *Master Motor Corporation (Private) Limited vs. Federation of Pakistan & Others* reported as 2020 CLC 117.

³ *Ismail Industries Limited vs. Mondelez International & Others* reported as 2019 MLD 1029; *Shahnawaz Jalil vs. Rani & Company & Others* reported as 2019 CLD 1338.

⁴ Per *Ijaz Ul Ahsan J.* in *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.

⁵ Barring certain exceptions, i.e. writs of *quo warranto* and *habeas corpus*, however, no case was made out to qualify the present petition within an exception recognized by law; 2019 SCMR 1952.

⁶ *Raja Muhammad Nadeem vs. The State* reported as PLD 2020 Supreme Court 282; *SECP vs. East West Insurance Company* reported as 2019 SCMR 532.

⁷ An attempt was made to suggest correlation of engine capacity and drive terrain with usage and entitlement of officers in BPS 17 to 22; as recorded vide order dated 10.09.2024 in CP D 4407 of 2024.

⁸ 2016 CLC 1; 2015 PLC 45; 2015 CLD 257; 2011 SCMR 1990; 2001 SCMR 574; PLD 2001 Supreme Court 415;

manner⁹. Public interest litigation should not be a mere adventure, an attempt to carry out a fishing expedition and / or to settle personal scores¹⁰. The Court must distinguish between public interest litigation and publicity motivated litigation, private interest litigation and / or politically motivated litigation¹¹.

In view hereof, we are constrained to observe that in the *lis* before us the petitioners' learned counsel has been unable to set forth a case for the invocation of the discretionary writ jurisdiction of this Court, hence, the petitions, and pending applications, are hereby dismissed.

Judge

Judge

Nasir

⁹ *Akhtar Hassan Khan vs. Federation of Pakistan* reported as 2012 SCMR 455.

¹⁰ *Dr. B. Singh vs. Union of India* reported as AIR 2004 SC 1923.

¹¹ *Senator Khalida Ateeb vs. Province of Sindh* reported as PLD 2024 Sindh 273; *Masjid e Saheem vs. PDOHA & Others (CP D 2566 of 2024)*; judgment dated 11th March 2025; *Mian Shabir Asmail vs. The Chief Minister of Punjab* reported as PLD 2017 Lahore 597.