

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No. -1564 of 2023

Date	Order with Signature(s) of Judge(s)
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1. For orders on C.M.A. No. 11298/23 (Urgency Application).
2. For orders on office objection as at flag "A".
3. For orders on C.M.A. No. 11300/23 (Stay Application).
4. For orders on C.M.A. No. 11299/23 (U/O 18 R 18 C.P.C.)

09.08.2023

Mr. Farough Naseem, Advocate for plaintiff.

1. Urgency application is granted.

2. At the request of learned counsel for the plaintiff one week's time is granted for compliance of office objection.

- 3-4. Learned counsel contends that the plaintiff is a political party duly registered with the Election Commission of Pakistan. He further contends that tenure of the present Government of Sindh is likely to end on or about 11.08.2023 but despite such fact in the month of July the Government of Sindh, its Secretaries, Departments, Autonomous Bodies etc. have unleashed a malafide and unlawful campaign to fill thousands of vacancies without observing codal formalities by way of pre-poll rigging and are being dished out to favorites and blue eyed ones. He also contends that Article 218(3) of the Constitution of Islamic Republic of Pakistan, 1973 provides that elections are to be organized and conducted honestly, justly and fairly in accordance with law; however, such induction in Govt. jobs by the defendants violates the paradigms of the said Article of the Constitution. Besides, the Govt. jobs in the Province of Sindh are required to be filled in accordance with Rules 14, 15 & 16 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 ("Rules 1974") and Sindh Public Service Commission Act, 2022 but various departments, offices and other bodies of Government of Sindh issued advertisements in the months of July and August, 2023 in a great haste malafidely to complete the process of appointment illegally and unlawfully without completing codal formalities and even in some cases asking the candidates to come in walk-in-interview aiming at adjusting blue eyed persons of the officials of Government of Sindh and for that Government of Sindh has unleashed malafide mechanism through defendant No. 146 (*SIBA Testing Service Sukkur IBA University, Sukkur*) and other departments/offices of Government of Sindh through various advertisements as

described in the paragraph No. 6 of the memo of plaint (Copies of the advertisements are attached as annexures "C to C-93, D to D-6 and K to K-4" to the memo of plaint). Learned counsel maintains that as per the orders of this Court dated 23.02.2021 and 06.03.2023 passed in C.P. No. D-5196 of 2017 and C.P. No. D-5343 of 2021, respectively, (available as annexures "E-3 and E-4" with the memo of plaint) no appointment can be pursued through a third party testing service from BPS-1 to BPS-15 in any department of the Government of Sindh except through competitive process and open merit with the budgetary sanction but in order to undo the aforementioned orders of this Court the defendants through Policy and Guideline bearing No. 50V(SGA&CD)8-27/2019 (BPS-5 to 15) dated 26.04.2023 has appointed defendant No. 146 as third party testing service for the purpose of carrying out illegal appointments in BPS-5 to 15, which "Policy and Guideline" is ultravires to law and the Constitution in view of the violation of Court orders, otherwise paragraph 17 of the order passed in C.P. No. D-5196 of 2017 reads as under:-

"In view of the consensus reached between the parties, we deem it appropriate to dispose of this petition in the following terms:

- a) All the appointments in the respondent-institution must be based on the process that is substantially and tangibly fair and within the parameters of its applicable rules and regulations, as well as based on minority/differently-abled quota reserved for those employees. The said exercise shall be undertaken by the competent authority of the respondent-institution through the competitive process on merits and not otherwise. The respondent-institution within two months from the date of receipt of this order.
- b) The Government of Sindh, from onwards shall ensure that the recruitment to every post from BPS-1 to BPS-15, applied by the candidates, in any department of Government of Sindh be made through the competitive process on open merit with the budgetary sanction, on regular basis (except the posts to be filled in the timebound projects/with tenurial limitation posts) by invoking the Sindh Civil Servants Act, 1973 and rules framed thereunder as well as the relevant recruitment Rules and regulations already notified by the respective departments.
- c) In the future, the Government of Sindh/respondents shall also avoid Public appointments, having permanent status, on a contract and adhoc basis (except the posts provided under Rules 18 to 20 of the Sindh Civil Servants (Appointment, Promotion, and Transfer) Rules 1974.

Learned counsel further states that even the advertisements in question are illegal as the same do not mention the requisite region of service or district and

requisite PRC and Domicile, which is in utter violation of Rule 15 of the 1974 Rules and Sindh Administrative Instructions No. SO.IX-REG(S&GAD)2(D)/1-174(Pt.II)(Vol.II) dated 4.3.1976. He also states that the advertisement referred to above whereby the post in BPS-1 to 4 have been advertised are unlawful as such post does not carry the name of the region from which persons are to be inducted, which is mandatory as per Rule 16 of the 1974 Rules, which requires filling of such posts on local basis. Besides, it is not known from said advertisement as to whether the said posts shall serve to whole Province or whether they are in respect of a particular region or district i.e. on local basis. He further states that the entire exercise for appointments under the advertisement in question is nothing but a mere shame, farcical, malafide and flies in the face of common sense as the entire process is non-transparent and illegal as there have been no written tests or interview at all, which violates the administrative instructions of the Government of Sindh dated 05.05.2017; hence, this suit has been maintained for cancellation, declaration and permanent injunction. He also states that in case ad-interim order is not granted, there is every likelihood that the defendants shall succeed in achieving their evil designs by violating fair and transparent process of recruitment and depriving the eligible candidates from their legal rights.

Points raised by the learned counsel require consideration. Let notice be issued to the defendants for 30.08.2023. Meanwhile the operation of all the advertisements attached as Annex C to C-93, D to D-6, and K to K-4 to the plaint and induction processes commenced by the defendants, Government of Sindh or any of its Offices, Autonomous and other Bodies, Departments and processes commenced through said advertisements are suspended till the next date of hearing.

Athar Zai


JUDGE