

IN THE HIGH COURT OF SINDH AT KARACHI

**Present:**

**Mr. Justice Muhammad Junaid Ghaffar  
Mr. Justice Muhammad Humayon Khan**

**C. P. No. D-6637 of 2016**

**Hafeezullah Abbasi ----- Petitioner**

**Versus**

**Federation of Pakistan & others ----- Respondents**

**C. P. No. D-1774 of 2017**

**Muhammad Yousuf Baloch ----- Petitioner**

**Versus**

**The State & others ----- Respondents**

**C. P. No. D-2735 of 2016**

**Muneer A. Shaikh ----- Petitioner**

**Versus**

**The D.G. NAB & another ----- Respondents**

**C. P. No. D-6459 of 2016**

**Zulfiqar Ali Dahot ----- Petitioner**

**Versus**

**The D.G. NAB & another ----- Respondents**

**Date of hearing: 25.04.2017.**

**Date of Order: 28.04.2017.**

**Petitioner: Through Mr. M. A. Kazi Advocate  
in C.P. No. D-1774/2017.**

**Through Mr. Shahab Sarki along with Mr.  
Zulfiqar Ali Langah Advocates in C.P. No.  
D-6637/2016.**

**Through Mr. Wasif Riaz Advocate in C.P. No. D-2735 & 6459/2016.**

**Respondents: Through Mr. Riaz Alam Special Prosecutor NAB along assisted by Mr. Syed Hassan Bilal I.O. NAB.**

**Respondents No. 2: Through Mr. Karam Dad Tanoli Advocate in C.P. No. D-6459/2016.**

### **ORDER**

**Muhammad Junaid Ghaffar, J.** These four Petitions arise out of Reference No. 10/2017 pending before the Accountability Court at Karachi, through which Petitioners in C.P.Nos.D-6637/2016 and D-1774/2017 seek post arrest bail being in custody, whereas, Petitioners in C.P. No. D-2735/2016 and D-6459/2016 seek pre-arrest bail. Both these petitioners were granted Ad-interim Pre-arrest bails vide orders dated 11.5.2016 & 24.11.2016

2. The precise controversy and allegations against the Petitioners is that in the year 2012 in Sindh Technical Education Vocational Training Atrocity (STEVTA) irregular appointments were made by the Petitioners in active connivance with each other and various posts in BS-16 & 17 were filled by accommodating ineligible candidates.

3. We have heard all the learned Counsel as well as the Special Prosecutor NAB and our observations are as under:-

- a) Learned Counsel for the Petitioner in C.P. No. D-6637/2016 (**Hafeezullah Abbasi**) has contended that the Petitioner was appointed as Managing Director of STEVTA on 22.5.2012, whereas, the vacancies were advertised on 23.2.2012 and an aptitude test was also held prior to his appointment, therefore, he has been falsely implicated. However, we are not impressed with this submission as admittedly the allegation is to the effect that firstly the Constitution of the Selection Committee as provided in STEVTA Recruitment Policy 2010 was changed on

28.5.2012 and a new Selection Committee was appointed in flagrant violation of Rules and Law, and secondly, the threshold of obtaining 50% marks in the Aptitude Test was relaxed, and finally, by doing so the relatives of accused were accommodated as they had failed to obtain such minimum marks in the Test. Admittedly all this has occurred after his appointment date.

- b) Insofar as the contention of the learned Counsel to the effect that two earlier inquiries conducted by the Anti-Corruption Department as well as by an Officer appointed by the Chief Minister against petitioner in C.P.No.D-6637/2016 (**Hafeezullah Abbasi**) had exonerated him is concerned, again it may be observed that now cognizance has been taken under the NAB Ordinance which is a special law and a Reference has been filed therefore, for the present purposes such reports are not relevant.
- c) The contention of the learned Counsel to the effect that policy decision i.e. the change in the Selection Committee as well as calling those persons who had not passed the aptitude test, was bonafidely and immediately sent to the Board / Chief Minister for ratification as provided under Section 9(e) of the STEVTA Act, 2009 and therefore, no illegality has been committed is concerned, again we may say that Section 9(e) confers powers on the Managing Director in situation of *emergency*; however, we have not been assisted nor are convinced that this was a case of emergent nature, therefore, reliance on the subsequent ratification by the Chief Minister does not seem to be of any help in any manner for the present purposes.
- d) Insofar as the contention of the learned Counsel for the Petitioner in C.P. No. D-1774/2016 (**Muhammad Yousuf Baloch**) to the effect that all along there was no role of the Petitioner except being nominated as Member of the Selection Committee and asked to conduct interview as being a Finance Director is concerned, we may observe that the allegation in this matter is twofold; (i) primarily against the Managing Director for having changed the

policy without lawful authority and (ii) by introduction of amended policy, the relatives of the Petitioners were accommodated by calling them for interview though they did not pass the Aptitude Test. The Petitioner in this Petition has benefitted with this, whereby, his son who obtained 46 marks in the aptitude test was called for Interview and was appointed as DAD(MIS) therefore, this contention is not convincing.

- e) Same is the case of Petitioner in C.P. No. D-2735/2016 (**Muneer A. Shaikh**) whose son obtained 42 marks but was selected and appointed for the post of A.D. (Admin).
- f) The Reference also reflects that after advertisement dated 23.2.2012 regarding 38 vacancies a total of 1668 candidates applied for the post of BS-16 & 17 which thereafter was short listed to 423 candidates. In the aptitude test on 29.4.2012, 315 candidates appeared and 76 candidates secured minimum 50% passing marks and above and thereafter NTS who conducted the test handed over the result of these 315 candidates to STEVTA for further process but instead of putting the result on the Website in order to illegally accommodate the favorite candidates accused **Hafeezullah Abbasi, Muhammad Yousuf Baloch** and **Muneer A. Shaikh** did not announce the result for public information and instead it was proposed that four candidates against each post may be called for interview without considering their marks obtained in the aptitude test. This appears to be in total violation of the appointment rules as once 76 candidates passed the 50% threshold against the 38 posts, no further change in the policy was required by the accused No.1 and others. This even otherwise, by no imagination can be called a case for exercise of powers under Section 9(e) of the Act, *ibid*, as pleaded.
- g) The letter dated 18.5.2012 vehemently relied upon by the Counsel for Petitioner in C.P. No. D-6637/2016 whereby, the ratification request by exercising powers conferred under Section 9(e) of the STEVTA Act was sought does not

depict this factual position as it states that “as per result of written test majority of the candidates have not been able to secure 50% marks for interview as per STEVTA policy and this situation creates almost no competition amongst the candidates in the interview”. We have not been able to comprehend this argument by the said Petitioner as nowhere it has been disclosed that how many candidates appeared in the test and how many had passed and a very vague statement has been made that majority of the candidates have not been able to secure 50% marks. This, notwithstanding, again is false even otherwise as 76 candidates had passed the Aptitude Test with 50% or more marks as against 38 vacancies.

- h) Therefore, we are of the view that the Petitioners **Hafeezullah Abbasi, Muhammad Yousuf Baloch and Muneer A. Shaikh** in C.P. No. D-6637 & 1774/2017 and 2735/2016 have no case for further inquiry, whereas, they have been prima facie shown to have been connected and involved in the offence, and on a tentative assessment of the material on record they appear to have been involved in misuse of authority and gaining direct benefits out of the offence in question. Therefore, no case is made out on their behalf.
- i) Insofar as the Petitioner in C.P. No. D-6459/2016 (**Zulfiqar Ali Dahot**) is concerned; it appears that at least there is no direct allegation against this Petitioner to have benefitted out of the alleged offence as none of his relatives appears to have been appointed at any post in this matter. He has only acted further on his nomination in the Committee to conduct interviews and as an employee being Deputy Director STEVTA Headquarters he performed his duties. Whereas, there is no direct allegation him regarding any misconduct in the Interview exercise. Whereas, in the reference, it has been mentioned that he was not supposed to perform such duties and therefore, he illegally resumed the role of being a Member of Selection Committee and remain instrumental in the commission of offence and found in league with co-accused and he could have prevented illegal appointments which he failed to

perform and thereby he misused his authority. In our view this question requires further inquiry to the extent of this Petitioner as apparently unlike other co-accused he is not a beneficiary vis-à-vis. other co-accused.

4. In view of hereinabove facts and circumstances of the case, the post arrest bail Petitions of Petitioners (**Hafeezullah Abbasi and Muhammad Yousuf Baloch**) in C.P. No. D-6637/2016 and 1774/2017 are dismissed, whereas, C.P. No. D-2735/2016 of Petitioner (**Muneer A. Shaikh**) is also dismissed and the Ad-interim pre-arrest bail granted vide order dated 11.5.2016 stands recalled. However, Ad-interim pre-arrest bail granted to Petitioner (**Zulfiqar Ali Dahot**) in C.P. No. D-6459/2016 is confirmed on the same terms by allowing his Petition.

5. Petitions bearing C.P.D-Nos. 1774/2017, 6637/2016 & 2735/2016 are dismissed whereas, C.P.D-No. 6459/2016 is allowed.

Dated: 28.04.2017

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