

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-28 of 2003

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Abdul Maalik Gaddi.

Employees Old Age Benefits Institution & othersPetitioners

V E R S U S

Federation of Pakistan & others.....Respondents

Date of hearing 28.03.2017

Syed Haider Imam Rizvi advocate for the petitioners.

Mr. Mehmood Abdul Ghani advocate for the Respondent No.2.

Muhammad Ali Mazhar, J: The petitioners sought the declaration that the letter dated 12.11.2002 available at page 57 issued by Respondent No.3 is illegal and violative of fundamental rights. In fact vide this impugned letter, the Deputy Registrar, NIRC informed the petitioners that the application filed on 19.09.2002 for the change of office bearers and members has been rejected by the learned Member RITU vide order dated 31.10.2002 and he also reproduced the concluding paragraph of the order. The application was rejected with the observations that by virtue of clause “f” of sub section (4) of Section 2 of the amended Ordinance, IRO, 2002 the department of the applicant union has been excluded from the purview of the IRO. This order was not challenged in appeal but petitioners preferred this constitution petition with further prayer that repealing of IRO, 1969 and promulgation of

IRO, 2002 are beyond the authority conferred on the Chief Executive. The petitioners further prayed for the declaration that petitioner No.1 is duly registered trade union of the respondent No. 2, therefore, it is entitled for all rights, privileges and benefits.

2. Learned counsel for the petitioners argued that by efflux of time the prayer clauses made in the petition have become infructuous due to various changes made in the Labour Laws and IRA, 2012 has also been promulgated which is in field. However, the learned counsel referred to CMA No. 4704 of 2010 which was filed during pendency of this petition. He pointed out annexure J-4 which is a letter dated 31.01.2009 sent to the Registrar, NIRC, Islamabad for change of office bearers and members. On 04.05.2009, the learned Chairman RTU, NIRC in case No. 7A(35)/2009 mentioned in the order that petitioners' General Secretary has filed an application for resurrection of a dead Federation and while quoting the earlier order dated 12.11.2002, learned Chairman observed that the above order has been challenged by the petitioners in the instant petition. In the concluding paragraph No. 6 of the order, learned Chairman observed that the applicant may either wait for the decision of the Sindh High Court in this petition or apply NIRC afresh for the registration of the Federation.

3. Learned counsel for the respondent No.2 argued that the proper remedy was available to challenge the order dated

12.11.2002 in appeal before the NIRC which right was not availed by the petitioners but they have directly approached this court which is not maintainable.

4. Since learned counsel for the petitioners himself admitted that the relief claimed in the instant petition has become infructuous by efflux of time, therefore, this petition is disposed of in view of the directions contained in the order dated 04.05.2009 in which the learned Chairman, NIRC observed that the petitioners may apply afresh for the registration of Federation for which the petitioners' counsel is agreed. The petition is disposed of accordingly along with pending applications. However, if any, application is filed for fresh registration of Federation before the NIRC the same shall be decided by NIRC strictly in accordance with law.

JUDGE

JUDGE

Aadil Arab