

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD

C.P No.D-3431 of 2017

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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1. For orders on M.A 14475/17
2. For orders on office objection
3. For orders on M.A 14476/17
4. For Katcha Peshi.
5. For orders on M.A 14477/17

**06.11.2017.**

Mr. Tahseen Ahmed H. Qureshi, Advocate for petitioner.

1 to 4. The petitioner has filed this petition in the nature of quo warranto challenging the appointment of respondent No.1 as Chairman, Board of Intermediate and Secondary Education, Mirpurkhas vide Notification dated 28.03.2016 issued by the Secretary to Chief Minister for Universities & Boards, Sindh. His main ground are (1) that respondent No.1 was working in the then Education and Literacy Department, Government of Sindh as Regional Director / Director of Colleges and retired from such service in the year 2014-2015 and therefore, his reemployment on the above post is in violation of the law and decisions of the Honourable Supreme Court; (2) that during his government service in the Education Department he was involved in the illegal appointments / embezzlement of government funds, therefore, such inquiries were initiated against him by the NAB Sindh as well as Provincial Anti-Corruption Department, Sindh.

After hearing the learned counsel for the petitioner at some length, when we asked him to show the relevant documents showing either the petitioner's employment in Education and Literacy Department as claimed by him or his retirement from service in the year 2014-2015 to appreciate his contentions, he replied that he has no such record to be placed before the Court. And when we asked learned Counsel to take some time to bring such relevant documents on the record first, he replied adamantly that either a notice be issued to the respondents or a decision

be made. In his arguments learned Counsel for the petitioner has reiterated the said facts as reproduced above and has relied upon the case laws reported as (1) 2017 SCMR 683, (2) PLD 2011 S.C 277, and (3) 2013 SCMR 1752. Besides hearing him, we have also seen the material available on record. Learned Counsel has filed a photostat copy of a notification dated 28.03.2016, whereby respondent No.1 has been purportedly appointed as Chairman, Board of Intermediate and Secondary Education, Mirpurkhas and a photostat copy of a call up notice dated 13.02.2014 in the inquiry being held by NAB against respondent No.1. These two documents do not even prima facie establish any alleged previous service of the respondent No.1 or his retirement from government service to consider issuing notice to the other side. A photostat copy of a call up notice does not either lead us to consider that the said alleged inquiry was turned into a reference against respondent No.1 and that he was convicted by the Accountability Court ultimately to even persuade ourselves for holding the inquiry in the appointment of respondent No.1 to determine by what authority he is holding the said post. Since learned Counsel has refused to take time to make good of defects and to bring the relevant material on record to prima facie establish his case for the purpose of issuing notice, we have no option but to dismiss this petition in limine. This petition is, therefore, dismissed in limine alongwith listed applications. The petitioner, however, will be at liberty to file a fresh petition, if he has any material in support of his claim.

JUDGE

JUDGE