

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No. D-4290 of 2018

Date	Order with signature(s) of Judge(s)
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Present:

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Omer Sial

For order on office objection.
For hearing of main case.

27.06.2018

Mr. Sri Chand Oad, Advocate for the petitioner.
Mr. Shaikh Liaquat Hussain, DAG.
Mr. Salahuddin Khan Gandapur, Advocate for ECP.
Mr. Jawwad Dero, Addl. A.G Sindh alongwith Ms. Rukhsana Durrani, State Counsel.
Ms. Sara Javed, Assistant Commissioner, Saddar, Karachi

MUHAMMAD ALI MAZHAR, J:- On the last date of hearing, Ms. Sara Javed, Assistant Commissioner, Saddar, Karachi requested for some time to submit the comments. Learned counsel for the petitioner also submitted copy of an order passed in Writ Petition No.215212 of 2018 by the Lahore High Court to show that Zari Tarqati Bank Ltd. moved a petition in the Lahore High Court and also relied upon an exemption certificate issued in the year 2008 exempting the requisition of ZTBL vehicles for the general Election 2008 duties. While issuing notice, learned Lahore High Court ordered not to take any coercive action against the petitioner. Today, learned counsel for the petitioner has submitted a copy of an order dated 11.6.2018, passed by the Assistant Commissioner Chishtian which is reproduced as under:-

“ In compliance of directions of exemption for Zarai Bank Limited from seizure of vehicles for General Election 2018 received from Honorable Lahore High Court and Honourable Election Commission of Pakistan, the official vehicle of Zarai Taraqati Bank Limited, Chishtian bearing No.BNJ-12-15 is hereby withdrawn from Assistant Returning Officer (PP-241)/Chief Officer, Municipal Committee, Chishtian with immediate effect and returned to Manage, Zarai Tarqati Bank Limited, Chishtian.

Further, Assistant Returning Officer (PP-241)/Chief Officer Municipal Committee, Chishtian is

requested to contact learned Secretary, DRTA, Bahawalnagar regarding provision of vehicle for duty in General Election, 2018.”

Learned counsel for the petitioner argued that on issuing notice by the learned Lahore High Court, the vehicle has been returned back to the petitioner in the above case. He further argued that the petitioner in this case is the Incharge Legal Litigation, ZTBL and according to the assignment of duties he has to visit different defaulters in the vehicle bearing No. GPA-724 which has been requisitioned by the Deputy Commissioner, South Karachi for General Election 2018. He further argued that due to non-availability of the vehicle, the petitioner cannot perform his duties to ensure swift recovery from various defaulters and at the same time no alternate official vehicle has been provided to him, therefore, he requests that some directions may be issued for releasing the vehicle to the petitioner so that he can perform his official duties in accordance with his job description. Learned counsel for the petitioner then points out page 15 of the petition which is the order dated 25.01.2008 passed by the Lahore High Court in Writ Petition No.11740 of 2007 in which also the Lahore High Court held that requisitioning of vehicles despite exemption was illegal and without lawful authority. Learned counsel further argued with reference to para 4 of the petition that more than a month has been passed and due to non-availability of official vehicle the bank is sustaining problems.

In the report submitted by the Assistant Commissioner, Saddar, Karachi, she has not denied the exemption though it was granted for the General Election 2008. She has approached the Provincial Election Commission, Sindh Karachi to clarify the status of the said exemption.

It is clear from the current situation that the vehicle in question has not been requisitioned from the Pool of spare vehicles of ZTBL but it was taken from the Manager Legal who is performing his official field duties in the same and if the vehicle is not returned to him, obviously his official duties will be seriously hampered and create recovery issues. On

19.6.2018, Ms.Maimoona Nasreen, Legal Advisor, ECP appeared and requested for some time to submit comments but today she is called absent and in her place Mr.Salahuddin Khan Gandapur, Advocate is present but he has no instructions from ECP in this matter. The learned Addl.A.G submits that since in similar circumstances a vehicle has been released by the Assistant Commissioner Chishtian while referring to the Lahore High Court order, therefore, he has no objection.

In view of above, this petition is disposed of with the directions to the Respondents No. 1 to 3 to return back the vehicle to the petitioner against proper acknowledgement so that he may perform his official duties swiftly. So far as the question of overall exemption is concerned, we would like to observe that ZTBL is not petitioner before us but the petitioner being Incharge Legal Litigation has individually approached for release of his aforesaid vehicle, therefore, we leave it for ECP to decide the issue of overall exemption, if any, from requisitioning the vehicle of ZBTL keeping in view the exemption granted earlier for General Election 2008. A copy of this order may be transmitted to the District Returning Officer, South, Karachi as well as learned Addl. A.G. Sindh.

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