

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-5795 of 2018

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Agha Faisal.

Hakeem Naseem Ahmed SiddiquiPetitioner

Versus

Federation of Pakistan & anotherRespondents

Date of hearing 01.02.2019

Petitioner is present a/w his counsel Mr. R. Masood Ahmed Qazi advocate. Assisted by Mr. Abdullah Abro advocate. Mr. Muhammad Safdar advocate for the respondent No.2. Mr. Ishrat Zahid Alvi, Assistant Attorney General. Muhammad Ismail, Registrar, National Council for Tibb, Islamabad.

Muhammad Ali Mazhar, J: The petitioner is an elected member of National Council for Tibb. The petitioner has leveled various allegations against the functions and working of the Council. He has also challenged a resolution passed on 18.08.2018, which is allegedly in violation of the meeting Rules. He further sought a declaration against the Registrar that before meeting all papers should be provided to all members along with Agenda. He has also sought directions against the respondent No.1 and 2 that before taking any action against the petitioner they must have sought the permission of this court with further directions that the petitioner should not be victimized by the respondent No. 1 & 2.

2. The bone of contention is the complaint dated 03.05.2018 communicated by Hakeem Muhammad Ahmed Saleemi, Chairman, Examination Committee, National Council for Tibb to the President of the Council in which the

complainant stated that the examination papers of Anatomy-II and another paper for Women and Child diseases were leaked prior to the examination and through initial preliminary inquiry, it came in the knowledge that the packet which was to be opened/received on 03.05.2018 was opened/received on 30.04.2018 at the Institution owned by the petitioner. The allegation against the petitioner is that he leaked/outed the papers and such allegations were also circulated on face book and also in the caption of breaking news on television. On this complaint, the President of the Council constituted a committee to investigate the recent incident of delivering questions paper before hand and appointed three members committee comprising Prof. Jamil Khan, Mansoor Ahmed and H.K. Rahat Nasim. The copy of email is available at page No. 391. The first session of the inquiry committee was conducted on 18.05.2018 in the office of National Council for Tibb, Islamabad wherein they decided to call Sagheer, Shafique Ahmed Burq and Hakeem Naseem Ahmed Qasmi (petitioner) before the inquiry committee. At page No. 399 a letter dated 03.07.2018 is available to show that the persons mentioned above were summoned by the committee to appear before them. Instead of appearing before the committee, a legal notice is available at page No. 405 which was sent by Qazi Nawaz Law Associates on behalf of petitioner in which various objections were raised with regard to the alleged inquiry and constitution of committee. The petitioner has shown grave concern that inquiry committee could not be appointed by the President but the matter must have been placed before the Council and this flaw is the main reason for which the petitioner was not appearing before the inquiry committee and he further submits that he had no role to play in any alleged leakage of papers.

3. At this juncture, we asked learned counsel for the respondent as to whether any show cause notice has been issued to the petitioner? Learned counsel on instructions

given by the Registrar of the Council for Tibb who is present in court informed us that no show cause notice was issued to the petitioner, however, on the complaint the committee was constituted by the President. He further submits that in the Rules there is no procedure for issuing any show cause notice before inquiry of the petitioner.

4. After scanning the record of the case, we reached the conclusion that in case of any serious allegations which have been leveled against the petitioner at least before conducting inquiry, a show cause notice should have been issued to him with all statement of allegations as according to the complaint, serious allegations have been leveled against him but without any show cause notice the inquiry committee has been constituted, which is otherwise against the old age principle of natural justice and it is also in violation of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 in which a right to fair trial is one of the basic fundamental right.

5. After arguing at some length, learned counsel for he National Council for Tibb and the Registrar present in court agreed that this matter will be placed before the Council in their meeting which will be convened on 20.02.2019 and the petitioner will be provided ample opportunity of hearing before the Council and they further assured that before the next meeting of Council no action shall be taken against the petitioner. Learned counsel for the petitioner and the petitioner both are agree to this proposal. Petition is disposed of in the above terms along with pending applications.

JUDGE

JUDGE