

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

CP D 919 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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Present:

Mr. Justice Salahuddin Panhwar
Mr. Justice Agha Faisal

Farooq Azam Memon.....Petitioner

Versus

Government of Sindh & Others.....Respondents

For orders as to maintainability of the petition.

22.04.2019

Malik Naeem Iqbal, advocate and Malik Altaf Javaid,
advocate for the petitioner.
Mr. K.A. Veswani, Assistant Advocate General Sindh.

1. At the very onset it was pointed out by the learned Assistant Advocate General that the present petition was not maintainable as the same petitioner had filed an earlier petition, being CP D 8212 of 2018, against the same respondents and with respect to the same controversy, and the said petition had been dismissed vide orders dated 17.12.2018 by this very Division Bench. Learned AAG submitted that there was no lawful basis for filing this second petition and the same was merely a ruse by the petitioner to obtain relief that it was otherwise disentitled to.

2. It is apparent from the record that the present petitioner had filed an earlier petition against the same respondents with respect to the same subject matter, being CP D 8212 of 2018, and it is considered appropriate to reproduce the final order delivered therein:

“The present petition has been filed stipulating that the official accommodation, allotted to the petitioner vide allotment letter dated 28.4.2017, has not been delivered thereto as of date. It is contended that the allotted accommodation remains in the unauthorized possession of its earlier occupant and pursuant to the orders of the Hon’ble Supreme Court the said unauthorized occupant was required to vacate the said premises.

Learned counsel drew attention to the application dated 01.11.2018, preferred by the petitioner to the respondent No.1/2, wherein it was requested that the allotted accommodation may be vacated from this unauthorized occupant and delivered to the petitioner in terms of the allotment letter 28.04.2017. Learned counsel states that the competent authority / respondent No.1/2 has not passed any order in respect of the said application and the same remains pending needlessly and to the detriment of the petitioner. Learned counsel further states that he would be satisfied and not press this petition if directions may be given to the respondent No.1/2 to decide the application of the petitioner within a reasonable time.

In view of foregoing, the present petition is dismissed as not pressed, along with pending application/s, with the directions to the respondent No.1/2 to decide the application dated 01.11.2018 of the petitioner, after providing an opportunity of hearing to the concerned parties, preferably within a time period of 15 days from the date of communication of this order thereto by the petitioner.

The office is directed to communicate a copy of this order to the office of the learned Advocate General.”

3. The learned counsel for the petitioner was confronted with this issue and his stance was solicited as to how this petition was maintainable in view of the earlier petition having been determined. The learned counsel was unable to proffer any cogent justification in response to the query raised by the Court. The only refrain of the learned counsel was that the respondents had not passed the order referred to above within the 15 day period hence the present petition was filed. The learned counsel also had no response to the query as to why appropriate proceedings had not been initiated in the earlier petition, if the petitioner was of the view that orders therein had not been complied with.

4. It is the considered view of this Court that no justification has been advanced for institution of the present petition, in view of CP D 8212 of 2018 already having been dismissed, hence, the present petition, along with pending applications, is hereby dismissed in limine.

JUDGE

JUDGE