

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D –2839 of 2017

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Muhammad Azim and others

Versus

Government of Sindh and another

For hearing of CMA No.26075 of 2018 (Contempt) :

Date of hearing & order : 16.11.2020

Mr. Ali Asadullah Bullo, advocate for the petitioners.

Mr. Ali Safdar Depar, AAG along with

Umar Farooq, Addl. Secretary (Services-II), SGA&CD.

ORDER

ADNAN-UL-KARIM MEMON, J. While dismissing this petition we found various discrepancies in the appointment of the petitioners and directed the Chief Secretary to scrutinize the recruitment process initiated by the Respondent No.2 for the post of Head Master / Head Mistress in BPS-17 strictly in accordance with the Recruitment Rules for the aforesaid posts within two months.

2. On 16.08.2018, petitioner No.09 filed an application under Section 3 & 4 of the Contempt of Court Ordinance 2003 (CMA No.26075/2018) for initiation of contempt proceedings against the alleged contemnor on account of his willful, intentional, and deliberate act of disobeying the above-mentioned judgment passed by this Court.

3. Mr. Ali Asadullah Bullo, learned counsel for the applicants, has submitted that since the alleged contemnor had failed to comply with the judgment passed by this Court in the aforesaid matter, contempt proceedings may be initiated against him.

4. We have heard learned counsel for the applicants and learned AAG appearing on behalf of the respondents on the listed application.

5. We have also scrutinized the compliance report dated 13.11.2020 submitted on behalf of the Secretary (Services) Services, General Administration and Coordination Department, Government of Sindh; prima-facie the explanation offered by the Respondents vide compliance statement dated 13.11.2020 is not

tenable under the law to the extent of retaining the petitioners on contract as stopgap arrangement till the recommendations of the Sindh Public Service Commission. In our view, the purported compliance report is not in line with the judgment passed by this Court in letter and spirit, which reads as under:

“9. The committee after thorough deliberations and discussion, make the following unanimous recommendations:

- (a) Reference may be made to Sindh Public Service Commission for the appointment of Head Masters / Head Mistresses BPS-17 on regular basis. The existing Head Masters / Head Mistresses serving on contract basis may be made eligible by incorporating provision in the recruitment rules of the post of Head Master / Head Mistresses BPS-17 provided they fulfill the eligibility criteria of required qualification and experience.
- (b) The recruitment rules of the post of Head Masters / Head Mistress BPS-17 may be referred to Recruitment Rules Committee I (RRC-I) for review to clear ambiguities of qualification and experience and to incorporate provision as recommended above.
- (c) As a stop-gap arrangement and also to avoid abrupt termination of contracts of Head Masters / Head Mistress BPS-17 leading to joblessness and loss of livelihood of many, the services of existing Head Masters / Head Mistress BPS-17 serving on contract basis may be extended subject to their satisfactory performance for a period of six months or till such time recommendations of Sindh Public Service Commission are received for appointment of Head Masters / Head Mistress on regular basis.”

6. Prim-facie, they have not looked into the basic spirit of the judgment as discussed supra, therefore, the compliance report is rejected to the extent of retaining them on the job on contract basis for the simple reason that they lack the basic qualification for the subject posts. Thus, we are left with two options; either to initiate proceedings for contempt against the alleged contemnors under the provisions of Contempt of Courts Ordinance, 2003, or Article 204 of the Constitution, or to direct the Chief Secretary to implement the judgment passed by this Court in letter and spirit, expeditiously.

7. We are of the considered view that the interest of justice would be best met if the respondents are granted last opportunity to comply with the direction of this Court in the instant matter without fail within two (02) weeks and to submit compliance report to this Court on the next date of hearing, failing which show cause notice shall be issued to alleged contemnors on the next date of hearing. To be listed on **04.12.2020 at 11:00 a.m.** when alleged contemnors must be present in Court along with their compliance report.

J U D G E

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Shahzad*