

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-6937 of 2018

Date

Order with signature of Judge

Before:-

Mr.Justice Muhammad Ali Mazhar

Mr.Justice Arshad Hussain Khan

Mustafa Iqbal Ahmed..... Petitioner

Versus

Federation of Pakistan & Others Respondents

04-12-2020

Mr.Taimor Ali Mirza, Advocate for the Petitioner.

Petitioner is also present.

Mr.Usman Tufail Shaikh, Advocate for
Respondent No.2 (SECP)

Mr.Hussain Bohra, Assistant Attorney General

Muhammad Ali Mazhar, J: The petitioner has challenged the prohibitory order whereby the restrictions have been imposed under Section 143 of the Securities Act, 2015, issued by Commissioner (SMD) on 10.07.2018. While levelling some allegations against the petitioner in prohibitory order the Commissioner (SMD) concluded as under:-

“10. Therefore, the Commission in exercise of its powers conferred under Section 143 of the Securities Act, 2015, with immediate effect restricts and prohibits you from carrying on any business in financial services market and also restricts trading activity from your trading account until further orders. However, you are allowed to divest your existing holdings during the suspended period as and when desired. The suspension will not be applicable on settlements

that are outstanding as of July 10, 2018. Accordingly, necessary instructions are being issued to NCCPL and CDC.

11. This restriction is being imposed without prejudice to any other action that the Commission may initiate in accordance with law.”

2. At the very outset, learned counsel for the respondent No.2 placed on record a copy of order passed by division bench of this court on 27.11.2019 in C.P.No.D-6500/2019, in which the similar controversy was raised and decided by this court as under:-

“2. Learned counsel for the petitioner argued that the investigation has been completed but no complaint against the petitioner has been filed so far in terms of Section 163 of the Securities Act, 2015. The petitioner is perturbed by the directions issued in the impugned order that he cannot carry on any business in financial services market. Learned counsel for the petitioner further submits that no account for business in financial services market is operated by him in his own name. Learned counsel for the SECP controverted this argument and states that as per the impugned order, it is clear that the petitioner was operating his trading account, so far as the restrictions imposed in the impugned order are concerned, the petitioner may not be able to carry on any business in the financial services market, the learned counsel for the SECP clarified that it does not mean that the petitioner will not be able to join any financial services in market but primarily it only restricts the petitioner from trading activities in his own accounts, however, he can join any brokerage house and may provide financial services. On this clarification, the petitioner is satisfied and this petition is disposed of accordingly alongwith pending application/s. The Securities and Exchange Commission of Pakistan shall act strictly in accordance with law and the entire proceedings initiated against the petitioner shall be concluded to decide the fate of order passed under Section 143 of the Securities Act, 2015 within three months.”

3. Learned counsel for the petitioner, respondent No.2 as well as learned Assistant Attorney General all have agreed that this petition may be disposed of in terms of the order passed by this court in C.P.No.D-6500/2019.

4. So far as restrictions imposed on the petitioner is concerned, during pendency of proceedings before SECP under Section 143 the petitioner may join any brokerage house and may provide financial services but the restrictions shall remain imposed on the petitioner from trading activities from his own account.

5. The SECP shall decide the fate of prohibitory order passed under Section 143 of the Securities Act, 2015 within three months after providing ample opportunity of hearing to the petitioner. Petition is disposed of.

Judge

Judge

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