

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P No. D-2288 of 2016

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For direction :

For hearing of CMA No.7200 of 2019 (Contempt) :

11.12.2020

Mr. Faizan Hussain Memon, advocate for petitioner No.2.

Mr. Iqbal Khurram, advocate for KMC.

Mr. Ali Safdar Depar, Assistant Advocate General

Through this application petitioner No.2 has prayed that the proceedings initiated against the alleged contemnors for disobeying the judgment pronounced in this petition on 23.01.2018, whereby respondent No.1 / competent authority was directed to consider and decide the case of both the petitioners for promotion in BPS-19 in accordance with law within one month. Today, a statement has been filed on behalf of the respondent-KMC along with a copy of the letter dated 14.03.2018, whereby the case of petitioner No.2 was sent to the Secretary, Local Government, Government of Sindh, Karachi, for consideration of his promotion.

2. We have heard the learned counsel for the parties and considered the stance of the alleged contemnors on the listed application.

3. We have noticed that despite specific direction to decide the petitioner's case with a period of one month from 23.01.2018, the meeting of the DPC for this purpose was held on 06.12.2019 i.e. after about twenty-three (23) months of the pronouncement of the Judgment as discussed supra. Not only this, it has been stated before us by the learned counsel for KMC that the matter has still not been finalized as the recommendation is in relation to the promotion of petitioner No.2 shall have to be signed by the competent authority of Local Government.

4. The above stance clearly shows that even after more than ten (10) months of the DPC the recommendation made therein has not been finalized. During arguments, we have been informed that petitioner No.2 stood retired from his service and now his case is to be considered for proforma promotion after his retirement.

5. In view of the above, this Court vide order dated 19.10.2020 issued show cause notice to all the five (05) members of the DPC as well as to alleged

contemnors to show cause why proceedings should not be initiated against them for deliberately and willfully disobeying the judgment of this Court.

6. The reply to the show cause notices were filed by the alleged contemnors and this Court vide order dated 10.11.2020 rejected their stance of alleged contemnors, and issued fresh show cause notice to Administrator, KMC and Senior Director H.R. On 09.12.2020, separate replies to the show cause were submitted by Administrator KMC and Members of DPC which were also found not satisfactory, in the meanwhile we directed them to place on record a statement before this Court disclosing the dates of all DPCs held after 23.01.2018 and the reasons for not placing the case of petitioner No.2 in the DPC held subsequently of the said order.

7. Prima-facie, the Judgment passed by this Court affirmed by the Hon'ble Supreme Court vide order dated 09.07.2018 passed in Civil Petition No.322-K / 2018 has not been complied with in its letter and spirit.

8. In view of the above, we are left with no option but to direct the competent authority to take stern disciplinary action against the delinquent officials who became accessory to the flouting of the Judgment passed by this Court. The said exercise shall be undertaken within a period of one (01) month from the date of receipt of this order and the compliance report be submitted to this Court through MIT-II of this Court.

9. In view of the facts and circumstances of the case and for the reasons alluded above, we are not satisfied with the explanation offered by the alleged contemnors that substantial compliance of the Judgment dated 23.01.2018 passed by this Court affirmed by the Hon'ble Supreme Court vide order dated 09.07.2018 passed in Civil Petition No.322-K / 2018 has not been complied with in its letter and spirit. Therefore, at this juncture, prima facie, Petitioner No.2 has made out a case for initiating contempt proceedings against the alleged contemnors. Therefore, the office is directed to issue show cause notice under section 17 (1) of the Contempt of Court Ordinance 2003 read with Article 204 of the Constitution, as to why contempt proceedings should not be initiated against them for willful defiance of the Judgment. The listed application bearing (CMA No. 7200 of 2019), is adjourned to be taken up in the second week of January 2021.

JUDGE

JUDGE