

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI

Constitutional Petition No. D – 301 of 2020

Date	Order with Signature of Judges
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Fresh Case :

1. For orders on Misc No.1272 of 2020 (Urgency) :
2. For order on Misc No.1273 of 2020 (Exemption) :
3. For order on Misc No.1274 of 2020 (Stay) :
4. For hearing of main case :

17.01.2020 :

M/s. Abid S. Zuberi & M. Haseeb Jamali, Ayan Mustafa Memon, M. Saad Siddiqui, Syed Zaeem Hyder & Saif Sohail Yunus, advocates for the petitioner.

1. Urgency granted.
3. Exemption is granted subject to all just exceptions.

3&4. Through this petition, the petitioner is seeking suspension of the notification dated 13.01.2020 issued by the Secretary, Universities and Boards Department, Government of Sindh and notification dated 14.1.2020 issued by the Registrar of the respondent-university ("**impugned notifications**"), whereby the petitioner has been relieved from the post of Pro Vice Chancellor of Dow University of Health Sciences, Karachi w.e.f. 13.01.2020. It is urged that the impugned notifications are against the terms and conditions of service of the petitioner as contained in the appointment order dated 06.06.2016, thus the action on the part of the respondents is *coram non judice* though the power to remove / relieve the petitioner vests only with the Chief Minister under Sub-section (5) of Section 9 of the Dow University of Health Sciences, Karachi Act 2004 ("**Act 2004**"), which is also subject to the conditions enumerated under the aforesaid law. He next added that nothing adverse is found against the petitioner during his tenure of service as Pro Vice Chancellor; that no opportunity of hearing has been provided to him while taking the impugned action, which is in violation of the principles of natural justice. Learned counsel cited various provisions of Act 2004 to substantiate his claim on the aforesaid proposition. He further argued that this is a tenure post and that tenure cannot be curtailed under the law. Per learned counsel the case of the Petitioner falls within the ambit of the dicta laid down by the Hon'ble Supreme Court of Pakistan in the case of Syed Mehmood Akhar Naqvi Vs. Federation of Pakistan (PLD 2013 SC 195); that Petitioner being eligible in all respect is entitled for completion of his minimum tenure of his posting as Pro Vice Chancellor; that the impugned relieving orders are violative of section 24-A of the General Clause Act; that the impugned orders do not reflect any reason thereof; that the petitioner was not at fault when he was ordered to be

de-notified / relieved from the aforesaid post. Learned counsel argued that when the ordinary tenure of posting has been specified in law such tenure of posting is required to be respected; that impugned notification has been passed on the order of the Chief Executive of the province on the pretext that retired officers cannot serve as Pro Vice Chancellor in the universities across the province; that the aforesaid analogy is against the basic spirit of law and principles of natural justice. He lastly prays for notice to the respondents and seeks suspension of the notifications dated 13.01.2020 & 14.01.2020 issued by the respondents.

To appreciate the aforesaid factum of the case, let notice be issued to respondents as well as to the learned Advocate General, Sindh for **29.01.2020**. In the meanwhile, impugned notification dated 14.01.2020 shall remain suspended.

Office is directed to tag this matter with C.P No.D-242 of 2020 and other connected petitions which are already fixed on 29.01.2020.