

IN THE HIGH COURT OF SINDH KARACHI

Constitutional Petition No. D – 1115 of 2020

Date	Order with Signature of Judge
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Fresh case :

1. For orders on CMA No.5221/2020 (Urgency) :
2. For orders on office objections 14 & 27 :
3. For orders on CMA No.5222/2020 (Exemption) :
4. For orders on CMA No./20 (Stay) :
5. For hearing of main case :

18.02.2020 :

Malik Naeem Iqbal, advocate for the petitioners.
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1. Urgency granted.

2 to 5. Petitioners have impugned decision dated 13.02.2020 by the learned Provincial Ombudsman Sindh, Protection Against Harassment of Women at the Work Place, whereby they have penalized under Section 4(4)(ii)(c&e) of the Protection Against Harassment of Women at the Work Place Act, 2010, in a complaint filed by respondent No.2 Mst. Humaira under Section 8 of the said Act. Petitioner No.2 Javed Hussain has been removed from service with immediate effect and fine of Rs.50,000.00 has been imposed upon him and also upon petitioner No.1 Lt. Col. (R) Abdul Latif Dar.

It is contended by learned counsel for the petitioners that they will be exercising their right of appeal before the appellate authority viz. the Governor of Sindh, but as the appellate authority does not have power to suspend the operation of the impugned decision, they have no other remedy except for filing the present petition for such interim relief. We are of the view that the petition is not maintainable ; firstly, as the petitioners have admittedly not availed and exhausted the remedy available in law ; secondly, High Court can only give a direction or declaration under Article 199 of the Constitution, as contemplated in the said Article ; and, lastly, Article 199 cannot be invoked merely for an interim relief without seeking any direction or declaration as the main relief.

After making submissions at some length regarding maintainability of this petition in view of the above, learned counsel does not press this petition and states that the petitioners would be filing a representation / appeal before the worthy Governor of Sindh against the impugned decision. In view of his statement, the petition and listed applications are dismissed as not pressed leaving the petitioners at liberty to avail their remedy, if any, before the competent forum in accordance with law.

JUDGE

JUDGE