

**IN THE HIGH COURT OF SINDH AT KARACHI**

Before:  
Ahmed Ali M. Shaikh, CJ  
Yousuf Ali Sayeed, J

CP No.D-4763 of 2016

Sarim Burney Trust International Versus Chairman, PTA and others

1. For orders on Misc. No.1955/2018
2. For hearing of main case

Petitioner through Mr. Qadir Hussain Khan, Advocate

Respondent No.1, PTA, through M/s Ali Akbar Saheto and Imdad Ali Saheto, Advocates

Respondent No.2 Federation of Pakistan through Mr. Khaleeq Ahmed DAG.

Intervenor M/s Ansar Burney Trust International through Ms. Shagufta Burney, Aroosh Kazmi and Asif Mubarak Ali, Advocates

Date of hearing 13.12.2021

**ORDER**

**AHMED ALI M. SHAIKH, CJ.**- Invoking the Constitutional Jurisdiction of this Court under Article 199, the petitioner trust seeks direction to the respondents to immediately restore cell/sim number No.0300-8243460 and not to allot it to anyone else.

2. Briefly, facts as stated in the petition are that sim No.0300-8243460 (the “**Sim**”) was allotted to M/s Sarim Burney Trust International (the “**Petitioner**”) but later the same was shifted to some other individual without intimation, etc., thus, violating his fundamental rights guaranteed in the Constitution. Petitioner sent notices to the respondent No.3 the Chief Executive Officer, Mobilink, but all in vain.

3. After notice, the Respondents PTA and M/s Mobilink filed parawise comments/counter-affidavit, inter-alia, maintaining that Section 4(f) of the Pakistan Telecommunication (Re-Organization) Act, 1996, empowers PTA to investigate and adjudicate on complaints and other claims made against

licenses arising out of alleged contraventions of the provisions of this act, the Rules made and licenses issued there under and take action accordingly. PTA further pleaded that Petitioner never approached or filed any complaint with it.

4. The Respondents No.3 and 4 in their comments/counter-affidavit further pointed out that in 1998 the Sim, was subscribed in the name of Ansar Burney Welfare Trust (the “Trust”) and Mr. Sarim Burney was its signatory. Later, on the request/NOC on the letterhead of the Trust signed by Mr. Sarim Burney, the ownership of the Sim was changed in the name of the Petitioner. Nonetheless, in June, 2015 the Trust informed the Respondent No.4 that as Mr. Sarim Burney is no more an employee of the Trust, the ownership be reverted and after ascertaining the factual position, the Respondent No.4 reverted the Sim in the name of the Trust.

5. On 17.8.2017 this Court passed the following orders:-

“At the suggestion of learned counsel for the petitioner and with the consent of learned counsel for the contesting Respondents being Respondent No.1/PTA and Respondents Nos.3 and 4/Mobilink, let petitioner file complaint with PTA making Mobilink party to the same and let the decision be given by PTA after hearing both sides within 45 days from today.

While this order would dispose of the petition for the time being we will keep it pending and it is to be fixed after two months.

Adjourned for the time being.”

6. The Petitioner, Respondent Mobilink and Intervenor Ansar Burney Trust filed their written submissions and the PTA after hearing and perusing the record/documents passed order dated 05.08.2018 concluding paragraph whereof reads as under:-

“Findings of the PTA/Order:

Matter was heard and record/documents perused. The core issue before PTA was to decide the real ownership of the mobile SIM bearing number 0300-8243460. In the light of available record/documents and the arguments levelled by the parties during hearing held at PTA Zonal Office Karachi, it has been perceived that

the facts mentioned in the reply from M/s Mobilink-Jazz (PMCL) dated 9-1-2018 are seems to be true. Therefore, this office is hereby considered the view that Ansar Burney Welfare Trust/Mr. Ansar Burney is seems to be the real and lawful owner of the disputed SIM.”

7. Learned counsel for the petitioner submitted that as the Sim was initially issued on the request of Mr. Sarim Burney the same be reverted in the Petitioner’s name. To a query posed, the learned counsel conceded that against the order of the PTA the Petitioner has not filed any Appeal or Revision before the concerned forum as yet.

8. The learned DAG and counsel for the intervenor in wake of findings of the PTA, as reproduced hereinabove, submitted that the instant petition be disposed of in terms thereof leaving the aggrieved party at liberty to avail remedy provided under the law.

9. We have heard the learned counsel for the Petitioner, Intervenor and DAG, besides perused the material available on record. During hearing the learned counsel for the Petitioner conceded that this Court is not the appellate forum against the orders passed by the Respondent No.1 and that in the given facts and circumstances, no further orders can be passed except leaving the Petitioner at liberty to available remedy provided under the law, if so advised. Aforesaid are the reasons of our short order dated 13.12.2021 whereby we had dismissed the Petition.

Chief Justice

Judge