

IN THE HIGH COURT OF SINDH AT KARACHI

C.P No. D-2371 of 2021

Present:-

Ahmed Ali M. Shaikh CJ &
Yousuf Ali Sayeed, J

Petitioner : The Excellent Security Limited through its Director Nazarul Islam, through Dr. Raana Khan, Advocate.

Respondent No.1 : Federation of Pakistan through Mr. Khalique Ahmed, DAG

Respondents No.2 to 6: The Chief Secretary, Sindh and others through Mr. Abdul Jalil Zubedi, AAG

Respondent No.7: The State Bank of Pakistan through Mr. Usman Pervaiz Malik, Advocate

Respondents No.8 and 9: The Habib Bank Limited and Operational Manager, HBL, Hasan Square Branch, Karachi, through Mr. Faisal Mehmood Ghani, Advocate.

Date of hearing : 24.12.2021

ORDER

AHMED ALI M. SHAIKH, CJ – Petitioner, a security company, through its Director Nazarul Islam, a retired Major, has invoked the Jurisdiction of this Court under Article 199 of the Constitution, and sought following relief(s):

- “1. Recall the order dated 27.01.2021 passed by the respondent No.8 as it has been cancelled in violation of the Sindh Covid-19 Emergency Relief Ordinance 2020 and Sindh Epidemic Diseases Act, 2014, as according to this it has been directed “not to terminate the services of all kind of workers i.e. permanent, contract, daily wages, probationers, temporary and piece rated as also defined and circulated vide Government of Sindh, Labour & Human Resources Department letter # SO(Lab-II)corona/2020-P dated 8 April 2020.”
2. Declare the order has been passed on 27.01.2021 is void and abinitio in the light of the Sindh Covid-19 Emergency Relief Ordinance, 2020, hence liable to be set aside.
3. A. Direct the Respondent No.8 for continuation of contract that he directs the Respondents No.9 to allow the petitioner as one of the signatory out of the two i.e. Manager Accounts and the petitioner to operate the company’s account so that the

payment of salaries to guards and the government dues/utility bills taxes may be extended accordingly.

OR

B. Direct to respondent No.8 that he directs to respondent No.9 to allow one signatory i.e. accounts manager to operate the bank accounts as he has been one of the signatory from day one of the opening of the said account.

4. Any other relief which this Hon'ble Court may deem fit."

2. Briefly, facts as stated in the memo of Petition are that pursuant to a Security Services Agreement dated 25.06.2019 (the "**Agreement**") inked between the Petitioner and Respondent No.8 Bank, the former has provided services of 76 security guards to the latter, in Punjab and Khyber Pakhtunkhwa ("**KPK**"). The grievance of the Petitioner, inter alia, is that the Respondent No.8 unilaterally terminated the contract before expiry of two years agreed period yielding in laying off the security guards. The aggrieved security guards/employees approached the National Industrial Relations Commission, Lahore Bench, and the civil Court at Peshawar, for redressal of their grievances.

3. Learned counsel for the Petitioner submitted that in view of the Sindh Covid-19 Emergency Relief Ordinance 2020 (the "**Ordinance**") the Respondent No.8 was not supposed to cancel the contract yielding in termination of services of 76 guards employed with it. She submitted that termination not only deprived the guards from their butter and bread, but also deprived them of social security/EOBI benefits going to be matured within two to three months.

4. Conversely, the learned counsel for the Respondent No.8 while questioning the very maintainability of the Petition submitted that jurisdiction of this Court under Article 199 can only be extended to any person carrying on affairs of federation, a province or a local government within the territorial jurisdiction of this Court. He submitted that even otherwise the issue relates to contractual obligations between the Petitioner and the Respondent No.8 while in case of termination of such contract writ jurisdiction cannot be invoked for enforcement of those rights. He further submitted that the security guards were the employees of the Petitioner, which terminated their services and said action is already subjudice before the NIRC Bench at Lahore. Lastly, he contended that the subject contract pertained to the provision of

security guards in the Punjab and KPK, falling outside the territorial jurisdiction of this Court and the provisions of the Ordinance are not applicable. He placed reliance on the Judgements of the Honourable Supreme Court of Pakistan in the cases reported in 2013 SCMR 1383 and 2014 SCMR 982.

5. Having heard the learned counsel for the petitioner and the Respondents No.8 and 9, scanned the material available on record. It appears that pursuant to the Agreement, the petitioner provided services of 76 security guards to the Respondent No.8 in the Punjab and KPK. After termination of the agreement and consequent termination of services by the Respondent No.8 and Petitioner respectively, in Punjab, some of the aggrieved security guards filed Case No.4B(60)/2021-L before the NIRC Bench at Lahore while in the KPK civil suit before the Senior Civil Judge, Peshawar was filed. The Bench of NIRC at Lahore vide order dated 24.2.2021 while issuing notice ordered the operation of impugned notice to be held in abeyance till next date of hearing. In both proceedings viz. before NIRC and Senior Civil Judge, Peshawar, amongst other, the Petitioner and Respondent No.8 Bank have been joined as respondents/defendants. So far contention of learned counsel for the petitioner that the termination of the Agreement by the Respondent No.8 violates of the provisions of the Ordinance (Act) the same is misconceived as after termination of the Agreement, the Petitioner terminated the services of the security guards working in the Punjab and KPK, not in Sindh Province. Moreover, the Respondent No.8 Bank after its privatization is being run by a private entity having no concern with the affairs of the Federation or a Province thus this Court while exercising powers under Article 199 of the Constitution cannot issue a writ of mandamus.

For the foregoing reasons, we by our short order dated 24.12.2021 dismissed the petition.

Chief Justice

Judge