

IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Aftab Ahmed Gorar
Mr. Justice Adnan-ul-Karim Memon

C.P. No. D-7022 of 2021

Mr. Mashooque Ali
Petitioner through : Mr. Raja Jawad Ali Saahar, advocate.

Respondents
Through : Mr. Ali Safdar Depar, AAG

Date of hearing
& order : **20.01.2022**

ORDER

ADNAN-UL-KARIM MEMON, J. Through this petition, the petitioner has prayed for issuance of the writ of quo warranto against respondent No.7 to vacate the office presently she is holding, inter-alia, on the ground that she is not qualified to hold the office and her initial appointment is hit by Article 199 (1) (b) (ii) of the Constitution, 1973.

2. Mr. Raja Jawad Ali Saahar, learned counsel for the petitioner, has argued that the petitioner is simply asking for the directions to the respondent-Antiquities and Archeology, Culture, Tourism & Antiquities Department, Government of Sindh, to verify the antecedents of respondent No.7, on the premise that she was appointed in the year 2013 based on fake Graduation Degree issued in her favor on 02.02.2012, which was just one year before her appointment; that she had managed the appointment later on the disabled quota based on fake domicile certificate, besides that having two different CNICs with two different numbers; that she has also influenced and got up-gradation of her post from BPS-11 to BPS-14 in the year 2019, as such her basic appointment on the subject post has been called in question.

3. We asked the learned counsel as to how this petition is maintainable under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, based on disputed questions of facts. Besides that, respondent No.7 was appointed in 2013 and the petitioner has filed this petition on 01.12.2021 which suffers from laches.

4. Learned counsel for the petitioner, has replied to the query and has submitted that the petitioner being a whistleblower is intimating to this Court that respondent No.7 lacks the qualification to hold the subject post. Learned counsel for the petitioner further pointed out that the laches will not come in the way in the dispensation of justice on the premise that a person who is disqualified and holding the post is against the spirit of the law. Learned counsel for the petitioner referred to the complaint against respondent No.7 to initiate the inquiry proceedings which has not yet been decided. He lastly prayed for allowing the instant petition.

5. We are not satisfied with the assertion of learned counsel for the petitioner on the aforesaid question for the simple reason that no documentary proof has been placed on record to substantiate the allegations leveled against respondent No.7. Besides the above, we do not concur

with this assertion of the learned counsel for the Petitioner with his explanation of laches and we are of the considered view that the instant Petition falls within the doctrine of laches as the Petitioner filed the instant Petition in December 2021 whereas the alleged cause of action accrued to him in February 2012, i.e. approximately 9 years before the filing of the instant Petition.

6. We while deciding this Petition, in the exercise of powers under Article 199 of the Constitution, are cognizant of the fact that the allegations though are serious, however, the petitioner waited for long years to come forward and say that respondent No.7 is not qualified to hold the post in the respondent-department, it is for the respondent-department to look into the state of affairs if the allegations are found to be true.

7. The above discussions lead us to an irresistible conclusion that the instant petition being incompetent is dismissed in limine along with the pending application(s) with no orders as to cost.

J U D G E

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