

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP. No. D- 742 of 2022

Date Order with Signature(s) of Judge(s)

Fresh Case

1. For order on Misc No.3364 /2022
2. For order on Misc No.3365 /2022
3. For order on Misc No.3366 /2022
4. For hearing of main case

08.02.2022

Mr. Amel Khan Kasi, advocate for the petitioner.

1. Urgency granted.
2. Granted subject to all just legal exceptions.
- 3-4. Learned Counsel for the petitioner has argued that respondent No.4 is holding the post as Project Director (BS-20), Local Government Project, Karachi for Execution/implementation of the Mega and ADP Schemes, which is a public office, in violation of Article 199(1) (b) (ii) of the Constitution. It is urged that respondent No.4, a BS-19 officer of Sindh Council Unified Grade Service was promoted haphazardly on the post of Senior Director (Survey) (BS-20), Local Government department without fulfilling the legal requirements as provided under the Recruitment Rules; that the respondent No.4, not being a professional engineer, is not qualified and eligible to hold the post of Project Director and/or Senior Director (BS-20) Local Government Department; that the respondent No.4 cannot be appointed on the aforesaid project post as he does not possess the professional engineering degree i.e. Bachelor of Engineering, thus he is not authorized to carry out the professional engineering work due to the decision of the Hon'ble Supreme Court of Pakistan rendered in the case of Maula Bux Shaikh and others v. Chief Minister Sindh and others, 2019 PLC (C.S) 282. Per learned counsel, due to utter shock and dismay to the public at large, the competent authority vide notification dated 19.1.2022 promoted respondent No.4 in BPS-20 by creating the post of Senior Director (Survey) which is a non-SCUGS post and posted him for the subject scheme in utter violation of the dicta laid down by the Hon'ble Supreme Court of Pakistan in the aforesaid case. He further pointed out that a megaproject for Karachi development has been entrusted to a person, who is neither eligible nor competent to carry out and/or execute the same involving billions of Rupees of public exchequer. Per learned counsel, the Annual Development Program 2021-2022 Local Government Department (page 39 to 63) is related to purely engineering work that cannot be executed by a non-professional engineer, thus the public amount is at stake at the hands of an unqualified and unprofessional engineer. He prayed for notice to the respondents and suspension of the impugned notification dated 19.01.2022.

The questions whether the impugned notification dated 19.01.2022, whereby respondent No.4 has been posted as Project Director (BS-20), Local Government Project, Karachi, for execution/implementation of the Mega and ADP Schemes violates the decision of the Government Board which opined that the petitioner could not be promoted against the post of professional engineering work due to the decision of the Hon'ble Supreme Court of Pakistan in the case of Maula Bux Shaikh and others (supra); and, whether the petitioner being an officer of SCUG service (BS-19) could be promoted to the non-SCUGS post of Senior Director (Survey) BS-20, Local Government Department under Rules, 1982 requires consideration. Let notice be issued to the respondents as well as to learned AAG for 17.02.2022. In the meanwhile, the operation of the impugned notification dated 19.01.2022 to the extent of respondent No.4 is suspended. Respondents No.1 & 3 are directed to appear in person and assist this Court on the aforesaid plea.

JUDGE

JUDGE

Nadir/PA