

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

C. P. No. D-310 of 2022

Present:

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

Petitioner : Khuwaja Amir Iqbal through Prof.
Umer Farooque Khan, Advocate.

Respondents : Nemo.

Date of hearing : 16.03.2022.

ORDER

YOUSUF ALI SAYEED, J. - The Petition is essentially one for a writ in the nature of quo-warranto, impugning the Respondent No.3 holding the Office of Vice Chancellor of Shaheed Zulfiqar Ali Bhutto University of Law, Karachi, and seeking that Notification No. SO(U)U&B/SZABUL/18-19/2019/1281 dated 02.09.2019 underpinning his appointment to that that post be declared void and ab-initio and set aside.

2. Succinctly stated, the Petitioner's challenge proceeds on the basis that the appointment of the Petitioner was barred under Article 207 (2) of the Constitution of Islamic Republic of Pakistan, 1973, as he had held the office of Chief Judge of the Supreme Appellate Court of Gilgit-Baltistan between 24.08.2015 and 30.08.2018, and the two-year hiatus mandated under the aforesaid Article had yet to lapse as on the date of issuance of the Impugned Notification.

3. Proceeding with his submissions, learned counsel for the Petitioner invited our attention to the Impugned Notification and argued that the same was illegal as the Petitioner could not have been appointed to the specified post on the date thereof he remained subject to the bar envisaged under Article 207(2), which reads as follows:

“207. Judge not to hold office of profit, etc.

(1) -----

(a) -----

(b) -----

(2) A person who has held office as a Judge of the Supreme Court or of a High Court shall not hold any office of profit in the service of Pakistan, not being a judicial or quasi-judicial office or the office of Chief Election Commissioner or of Chairman or member of a law commission or of Chairman or member of the Council of Islamic Ideology, before the expiration of two years after he has ceased to hold that office.”

4. However, on query posed as to how the Supreme Appellate Court, Gilgit, Baltistan could conceivably be regarded as a Court established under Chapter 2 & 3 Part-VII of the of the Constitution of Pakistan so as to render a person who had had held the Office of a Judge of that Court subject to the bar under Article 207(2), learned counsel for the Petitioner was at loss to advance any cogent submission, but instead shifted his plea to the Gilgit-Baltistan (Empowerment and Self-Governance) Order, 2009 so as to argue that Section 69(12) set out a similar bar in as much as it stipulated that:

“A person who has held office as Judge of the Chief Court shall not hold any office of profit in the service of Gilgit-Baltistan not being a Judicial or quasi-judicial office or the office of Chief Election Commissioner or of Chairman or member of the Public Service Commission, before the expiration of two years after he ceased to hold that office.”

5. It is apparent from bare reading of Section 69(12) that it too does not advance the cause of the Petitioner in as much as it applies only to the holding of the Office of profit in the service of Gilgit-Baltistan. When queried in that regard, learned counsel was again at a loss to advance any argument beyond seeking to intemingle both the aforementioned provisions.

6. Having considered the matter, we find no force in the instant Petition as Article 207(2) of the Constitution of Pakistan and Section 69(12) of the 2009 Order operate in their distinct spheres and cannot be applied in concert, hence the holding of a judicial office in Gilgit-Baltistan is not to be intertwined with holding an office of profit in the service of Pakistan or vice versa.

7. As such, the instant Petition is patently misconceived and accordingly stands dismissed *in limine*.

JUDGE

CHIEF JUSTICE

Karachi.
Dated: