

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

**Constitutional Petition No. D – 5172 of 2021**

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**Order with signature of Judge(s)**

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1. For order on CMA No.21758/2021 (U/S 152)
2. For order on office objection No.1
3. For order on CMA No.21365/2021 (Exemption)
4. For order on CMA No.21366/2021 (Stay)
5. For hearing of main case

**02.09.2021**

Mr. Khalid Javed, advocate for the petitioners  
Mr. Abdul Wahab Baloch, DAG  
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Mr. Ghulam Sarwar Chandio advocate files Vakalatnama on behalf of respondent No.3 along with statement dated 02.9.2021 appended with order dated 31.8.2021 passed by learned Islamabad High Court, Islamabad, taken on record.

At this juncture, it would be conducive to refer order dated 31.8.2021 passed in Writ Petition No.3061 of 2021 (Pearl Continental Hotels Staff Union Pakistan Versus Full Bench of National Industrial Relations Commission and others), which speaks that: -

*“31.8.2021 Mr. Abdul Hafeez Amjad, Advocate for the petitioner.  
Mr. Nasir Aman Sindhu, President of respondent No.4/Union  
Mr. Muhammad Ishaq Malik, Chairman of respondent No.4/Union*

*Through the instant writ petition, the petitioner, Pearl Continental Hotels Staff Union Pakistan, impugns the order dated 17.08.2021 passed by the officer authorized to hold a referendum in the establishment of PC Hotels.*

*2. Learned counsel for the petitioner submitted that by reason of the impugned order, several of its members, who are employees of the Pakistan Services Limited (“P.S.L.”) have been disenfranchised; that P.S.L. is part and parcel of the PC Hotels, and therefore, the petitioner’s members, who are employees of P.S.L., had the right to cast their vote in the forthcoming referendum; and that the observation made by the authorized officer to the effect that the employees of P.S.L. have no nexus with PC Hotels is not factually correct.*

*3. Learned counsel for the petitioner further submitted that until the decision on this petition, status quo should be directed to be maintained so that the referendum proceedings are halted.*

4. *It is not disputed that the referendum in the establishment of PC Hotels has not taken place since the past four years.*

5. *The petitioner has already filed an appeal under Section 58 of the Industrial Relations Act, 2012 before the learned Full Bench, National Industrial Relations Commission against the impugned order dated 17.08.2021. The referendum proceedings that take place during the pendency of the said appeal would be subject to its final outcome. In this view of the matter, interference with the impugned order dated 17.08.2021 is not warranted by this Court.*

*In view of the above, the instant petition is **dismissed in limine.***

Whereas, in the present petition, prayer clause is that: -

- (i) *Hold that the very exclusion of the petitioners from the voters list be set-aside including the other as well by the setting aside the impugned order by holding the same illegal and unlawful against the mandatory legal and constitutional rights of the petitioners. With further direction to include the names of the petitioners and others in the list of voters for referendum.*
- (ii) *Suspend the referendum proceedings scheduled on 03.09.2021 or any other date till the disposal of the instant petition.*

Candidly instant petition is on same and identical footings, that issue has already been adjudicated by the learned Judges of Lahore High Court and Islamabad High Court, hence petitioner has no objection if instant petition is disposed of in above terms subject to right of appeal. On that proposition, learned counsel for respondents extend no objection. Accordingly, petition is disposed of in above terms along with listed applications.

JUDGE

JUDGE

Zahid/\*