

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

**Constitutional Petition No. D – 1757 of 2012**

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

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1. For order on CMA No.23413/2021 (U/R 50)
2. For order on office objection No.1
3. For order on CMA No.10176/2012 (Exemption)
4. For hearing of CMA No.10177/2012 (Stay)
5. For hearing of main case

**21.09.2021**

Mr. Manzoor Hameed Arain, advocate for EOBI  
Mr. Ali Safdar Depar, AAG  
Mr. Abraiz, advocate for EOBI along with Mr. Qadeer Ahmed, Director (Law)  
EOBI  
Mr. Sajid Basheer, advocate  
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None present for the petitioner. This matter is pending since 2012 and was listed on 14.9.2021. On that day, matter was adjourned for today thereafter counsel for the petitioner has filed application for withdrawal of Vakalatnama after nine years when he was put on notice to argue this matter.

2. Precisely relevant facts are that the petitioner has impugned the order dated 15.12.2011, passed by the Appellate Authority, Board of Trustee, Employees' Old-Age Benefits Institution in Appeal No.KHI-007/2008. We have examined the impugned order. Being relevant paragraphs No.3 to 6 are reproduced as under: -

“3) *However, during the course of arguments the learned counsel for the Appellant admitted that in the year 2006 the number of employees was increased from 10 in the Appellant's establishment hence they got registered with EOBI and since then they are paying the EOBI contribution accordingly. The Advocate of the Appellant have further raised the following legal objections:*

*i. That the section 35 of the Act provides appeal before the Board (Board of Trustees) which read with section 2 (aa), 7, 8, 44 & 45 of the Act and read with Rule 11 of the EOB (Board of Trustees) Rules 1977, Appeals have to be heard by the Board of Trustees itself having due Quorum and not by a committee of the Board.*

*ii. That the Rule 18(V) of the EOB (Board of Trustee) Rules 1977 providing for appeal to be heard by a committee of the Board instead of the Board itself is Ultra vires of the said provision of the Act.*

*iii. That the Resolution of the Board dated 3 & 4 August 1983 reducing the Quorum of the said committee to two and one is also illegal and in violation of the law/Act.*

4) *The learned Advocate for the Respondent on the other hand strongly opposed the arguments of the Appellants Advocate and argued that the appellant was asked vide letters dated 01.08.2002, 23.08.2002 and 18.01.2003 to get registered with EOBI, but Appellant avoided do*

so, therefore the establishment was registered in accordance with the provisions available in the relevant laws. The field Officer of the Respondent visited the establishment of the Appellant and found more than 10 employees working in the establishment and issued demand notice dated 18.10.2004 for Rs.73,440/- for the period from July 2002 to June 2004. The Appellant instead of making the payment of the assessed amount filed petition under section 33 of the EOB Act 1976, before the Learned Adjudicating Authority-I, and the same was dismissed by the Authority on 12.11.2007.

5) The Learned Advocate for Respondent replied the legal objections raised by the counsel of the Appellant regarding Quorum argued that the Sub section V of section 18 of the EOB (Board of Trustees) Rules 1977 is clear and empowers the Board to formulate/appoint committee to act for and on their behalf. The relevant section is reproduced here in under:-

*“The Board may, instead of hearing [appeals] itself, appoint a committee of the Board to hear and decide [appeals] on its behalf, and any decision of the committee so given and communicated to the aggrieved person shall be as fully effective and binding as if given by the Board itself.”*

1. 6) Heard the learned Advocate for hearing of main case  
advocates of both the parties and perused the record available in file, since the Appellant has been registered with EOBI since 2006 and paying the EOBI contribution on regular basis and the legal objections raised by the learned counsel on behalf of the Appellant were duly replied by the Respondent Counsel as the EOB Act is a beneficial legislation, therefore the Board is of the opinion that all employees should be covered under the umbrella of this Act and benefits should be extended to all employees of the establishment and the Appellant is under legal obligation to pay the dues in question.”

3. Bare perusal of above in the light of ground taken in the present petition that the petitioner has completed Forms PR-01 and PE-02, therefore, registration as demanded by the EOBI is against the law. It is further agitated that criterion under SESSI and EOBI are different as well ten or more persons for establishment are required. Learned counsel for EOBI contends that five workers and more than five are notified. Accordingly, adjudication made by both authorities is in accordance with law.

This petition is, therefore, dismissed along with listed applications.

JUDGE

JUDGE