

# IN THE HIGH COURT OF SINDH, KARACHI.

CONST. PETITION No. D-5651 OF 2021

Present:-  
Ahmed Ali M. Shaikh, CJ &  
Yousuf Ali Sayeed, J

Petitioner : Omni Aviation (Pvt) Limited,  
through Mr. Obaid-ur-Rehman Khan, Advocate

Respondents : Pakistan Civil Aviation Authority and others  
Nemo

Dated of hearing : 27.09.2021

## **ORDER**

**AHMED ALI M. SHAIKH, CJ:** The Petitioner, an aviation company forming part of the Omni Group of Companies, apparently owns and retains a single jet Hawker Beechjet 400xp under registration No.AP-KNM (hereinafter referred to as “**the Aircraft**”) since September, 2013, which is under the regulatory control of the Pakistan Civil Aviation Authority, (the Respondent No.1), and the Directorate Airworthiness (the Respondent No.2).

2. The facts giving rise to these proceedings are that the Omni Group of Companies was inter-alia the subject of Human Right Case No. 39216-G of 2018 reported as *2019 SCMR 332*. In the aforesaid proceedings a Joint Investigation Team (hereinafter referred to as ‘the JIT’) was constituted under the orders of the Hon’ble Supreme Court in relation to affairs of Fake Accounts and on the report of the JIT a restraining order was passed by the Apex Court with regard to the sale, purchase and transfer in any manner of the building/properties belonging to various companies, including the Omni Group, and any other properties or assets in which the said companies have any direct or indirect or beneficial interest. It was further ordered that none of the properties, assets etc. mentioned in the report shall henceforth be alienated or encumbered and further caution will be marked on all accounts mentioned in the JIT report.

3. The grievance of the Petitioner is that under the garb of aforesaid order of Hon'ble Supreme Court and by misconstruing the same the Aircraft was illegally and unlawfully grounded at Jinnah International Airport, Karachi, although no such directions were issued to the Respondents. Per counsel the aforesaid interim order dated 24.12.2018 passed in the Human Right Case merged into the Final order made by the Hon'ble Supreme Court whereby certain directions were given but no clear cut directions or observations were specifically given / made with regard to the sale, purchase and transfer of properties of the company. In the backdrop of above, the Petitioner approached the Respondent No.2 through letter dated 22.03.2021 and sought permission for undertaking the scheduled maintenance "CHECK-C" of the Aircraft, which was due in March 2019, entailing a ferry flight permission in respect thereof from Karachi to Dubai, which was not considered and turned down by the concerned Respondents through the impugned letters dated 21.04.2021 and 31.05.2021. Per counsel the Aircraft is parked in open air parking area of Jinnah International Airport, Karachi for more than two years, and requires proper maintenance, however, due to refusal on the part of Respondents, the Petitioner company could not transport the Aircraft to Dubai for its maintenance though the Respondents have been approached time and again but to no avail.

4. We have heard the submissions made by the learned counsel for the Petitioner, scanned the record including the interim order dated 24.12.2018 and the final order dated 16.01.2019 passed by the Hon'ble Supreme Court in the aforesaid Human Right Case.

5. A bare perusal of the interim order would stipulate that clear injunctive order was passed with regard to sale, purchase and transfer of building and other properties having nexus with the companies, subject matter of Human Right Case No. 39216-G of 2018, including assets of Petitioner's Company. In case, Petitioner is allowed to fly the Aircraft from Pakistan to Dubai, the Apex Court's order may be flouted. Even otherwise, the matter has been thoroughly heard, looked into and disposed of by the Hon'ble Supreme Court and under any

circumstances, this Court cannot sit or pass any order in the aforesaid case. We have also perused the final order of Apex Court reported in *2019 SCMR 332* titled as (Slackness in the progress of pending Enquiries relating to Fake Bank Accounts etc.), and for the sake of clarity paragraph 38, which is relevant to the proceedings in hand, is reproduced as follows:-

“38. This matter is accordingly disposed of, subject to the above directions and submission of reports by NAB. It is however, made clear that the matter may be resurrected at any time on the application of any of the parties or at the discretion of the Implementation Bench”.

6. In view of above, we are clear in our mind that the Respondents have rightly refused to accede the request of the Petitioner as it was the sole domain of the Hon’ble Supreme Court to pass any order with regard to the building, properties, assets etc. of the Petitioner, thus the petition in hand being without any force is accordingly dismissed on that score, leaving the Petitioner to avail the remedy by approaching the proper forum for redressal of its grievance, if so advised.

CHIEF JUSTICE

JUDGE