

ORDER SHEET

THE HIGH COURT OF SINDH, AT KARACHI

C.P. No.D-3207 of 2018

Muhammad Ali Qureshi v. Federation of Pakistan & 3 others

Date

Order with signature(s) of Judge(s)

1. For orders on office objection
2. For hearing of Misc. No.14588/2018
3. For hearing of main case.

06.10.2020

Malik Khushhal Khan, Advocate for the Petitioner.

Mr. Kashif Nazir, Advocate for Respondent No.4.

Mr. Zahid Khan, Assistant Attorney General.

Mr. Abdul Jaleel Zubedi, Assistant Advocate General, Sindh.

This petition primarily concerns with the issuance of Show Cause Notice dated 24.03.2018 on the consideration that litigation was initiated by petitioner. Society in fact raised grievances that he being member having Membership No.9039 cannot be given preferential right over earlier 1400 members for allotment of the land. The length of the services with the federation will not count towards the length of the membership. Petitioner has also initiated legal proceedings such as ABN Case No.05 of 2017 and others, which were pending at the relevant time.

Initiation of the legal proceedings itself should not have been matter of consideration to oust the petitioner as being member of the society. In fact, it is a civilized way to register a right, which was started by the petitioner and thus malafide cannot be attributed by respondent/Society by issuing Show Cause Notice on account of legal challenges made by petitioner.

Be that as it may, no one is in attendance on behalf of Society to respond. The reply was also available in response to Show Cause Notice, however, petitioner's Counsel has not disputed the jurisdiction of the Society to issue them Show Cause Notice over the grievances. The pleading and defence taken by petitioner in the legal battle may or may not carry substance to resist the authority and jurisdiction but legal action of petitioner cannot be considered a misconduct to oust him from membership. We are also conscious of the fact that it is within the jurisdiction of Society to issue a show cause and to decide same in accordance with law. Since the Society's Counsel is not in attendance, we deem it

appropriate that since the jurisdiction of Hon'ble Secretary of the Society is not challenged, the writ jurisdiction cannot be invoked. Society however may decide the issue raised in the Show Cause Notice in accordance with law, preferably, within four weeks, considering the above observation.

Insofar as, the subject piece of land is concerned, Mr. Malik Khushhal Khan, Advocate has pointed out that observations of the Hon'ble Supreme Court of Pakistan shall be binding on Society while allotment of the land to the respondent No.4. The subject matter of this petition is a Show Cause Notice and we have passed orders to such an extent, however, we may add that Society is under legal obligation to act in accordance with law and order/observation of Hon'ble Supreme Court. Let the Society deal with issue strictly in terms of orders of Hon'ble Supreme Court of Pakistan in CP No. 09/2010 while dealing the land in question.

The petition stands disposed of in above along with listed application.

J U D G E

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*Faizan/PA**