

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

C. P. No. D-7098 of 2022

Present:

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

Shahzad Ali Ghazi-----Petitioner

Versus

Province of Sindh & others-----Respondents

Saify Ali Khan, Advocate, for the Petitioner.

Date of hearing : 06.12.2022.

ORDER

YOUSUF ALI SAYEED, J. - The Petitioner has sought to impugn a Notification issued by the Chief Administrator Auqaf, Government of Sindh, so as to bar his entry to the shrine of Abdullah Shah Ghazi.

2. While the prayer clause mentions the date of the Notification as being 28.10.2022, the particular document filed along with the Petition and identified by counsel as being the Notification sought to be impugned bears the date 03.10.2022, which itself reflects that the measure is being taken in the interests of public safety, as the Petitioner is said to be a charlatan, posing as a descendant of the aforementioned personage so as to claim that he is the “gaddi/sajjada nasheen” in order to swindle devotees and also incite sectarian strife and hatred between different sects and factions.

3. That being said, the prayers advanced through the Petition seek that this Court may be pleased:

- “a. To direct the Respondents No.1 & 2 to withdraw the circulated dated 28.10.2022 or struck down this circular by this Honourable Court.
- b. To direct the Respondent No.3 to provide police protection to the Petitioner and his family under the rule and regulation, the Petitioner is under threats after issuing a circular dated 28.10.2022 because the Respondent No.2 viral this circular on social media and the Petitioner phone numbers and residential address mentioned in the said circular and the Petitioner could not send his children to the school, he restricts himself and his family members from free movement because the different ban organizations threatening him and his family, if the Petitioner or his family member lost their lives the Respondents are responsible for their lost of life.
- c. To direct the Respondents No.1 & 2 not to restrain the Petitioner from visitation at Shrine of Abdullah Shah Ghazi and not to deprive the Petitioner from his fundamental rights.
- d. Any other relief this Honourable Court deems fit and proper under the facts and circumstances of the case.”

4. We had called upon learned counsel to show what infirmity or illegality afflicted the Notification so as to warrant correction through the Constitutional jurisdiction of this Court, but no cogent argument was forthcoming. On the contrary, when pressed, it came to the fore that the Petitioner has also filed Suit No. 1748 of 2022 before this Court on the Original Side, seeking practically the same relief, in as much as it has thereby been prayed that the Court be pleased:

- “a. To declare that the circular dated 03.10.2022 issued by the defendant No.2 is null and void and struck down by this Hon’ble Court.

- b. To declare that the plaintiff humiliated and lost his reputation and continuously facing irreparable loss and he is entitled to damages for lost of reputation Rs.5 Crore and Rs.4 Crore for endangering the life of plaintiff total amount of damages in tune to Rs.9,00,00,000 (Nine Crore) should be paid by both the defendants severally and jointly.
 - c. To declare that the plaintiff cannot restrain the visitation at shrine Abdullah Shah Ghazi by the defendants and their employees, agent and attorneys, assistants in any manner whatsoever nature.
 - d. To declare the plaintiff is under threats after issuing a circulated dated 28.10.2022 because the defendant No.2 viral this circular on social media and the plaintiff phone numbers and residential address mentioned in the said circular and the plaintiff could not send his children to the school, he restricts himself and his family members from free movement because the different ban organizations threatening him and his family, if the plaintiff or his family member lost their lives the defendants are responsible for their loss of life.
 - e. Any other better, further and/or equitable relief that this Honourable Court may deem fit, proper and necessary given the relevant circumstances of the case.
 - f. Cost of the suit may kindly be awarded.”
5. As it stands, the Petition and Suit were both presented on the same day (i.e. 15.11.2022), with the Petitioner being represented in both matters by the same counsel and both sets of pleadings bearing her signatures accordingly. However, in neither set of pleadings has the other species of litigation been disclosed. On the contrary, the Certificates accompanying the Petition and Suit under signature of counsel are worded evasively, with the former merely certifying than no other petition and the latter that no other suit has been filed on the subject. In that regard, it merits consideration that the relevant Circular dated 21.072020, setting out the applicable practice direction reads as follows:

“IN THE HIGH COURT OF SINDH, AT KARACHI

No.Gaz/Direction/HC/Suit-Nil/2020. Dated21.07.2020

CIRCULAR

In order to desist the parties and their Counsel to seek both remedies i.e. by way of a Civil Suit and Constitution Petition before the Court on the same cause of action without either disclosing it; or properly withdrawing one before having resort to other, the Hon’ble Chief Justice has been pleased to direct that at the time of filing of Civil Suit or Constitution Petition, they shall submit an undertaking that no other Civil Suit/Constitution Petition on same cause of action is in litigation before the Court.

REGISTRAR”

6. In the given circumstances, it is apparent that the Petitioner has willfully suppressed the existence of the Suit in the Memo of Petition and vice versa, and approached this Court with unclean hands.
7. In view of the foregoing, the Petition stands dismissed *in limine*, with costs of Rs.25,000/- to be deposited by the Petitioner towards the High Court Clinic within seven days of the date of this Order and the receipt submitted before the office, failing which the office is directed to take appropriate steps through the National Database and Registration Authority for digitally impounding the CNIC of the Petitioner so as to secure compliance.

8. Whilst the circumstances also reflect that the Certificates issued under signature of counsel have obviously been deliberately worded in so evasive a manner as to facilitate circumvention of the aforementioned Circular, which *prima facie* constitutes professional misconduct, we would stop short of referring the matter to the Bar Council for disciplinary proceedings and would let it rest with a warning to ensure that such practice is not repeated in future. The concerned Deputy Registrars and Assistant Registrars are also directed to remain vigilant so as to ensure that the wording of all Certificates is fully in accord with the Circular.

JUDGE

CHIEF JUSTICE