

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. NO. D-3668 of 2020

Date

Order with signature of Judge

DIRECTION

- 1) For hearing of CMA No. 9794/2021.
- 2) For hearing of CMA No. 11052/2021.

25.08.2022.

Mr. Altaf Hussain, Advocate for Petitioners.
Mr. Ali Safdar Deepar, Assistant Advocate General Sindh.

1. This Contempt application has been filed against the alleged Contemnor for allegedly violating the order dated 16.02.2021; however, apparently, the alleged Contemnor is neither a party to this Petition nor any direction was issued to the said alleged Contemnor for making any compliance of the order in question. While confronted, learned Counsel for the Petitioners has no justifiable answer. Apparently, this application is misconceived and has resulted in sheer wastage of Court's time; liable to be dismissed with cost; but showing restraint, the same is dismissed; however, the petitioner is warned to be careful.

2. This application has been filed again for alleged contempt of order dated 16.02.2021. The operative part of the said order reads as under:-

7. "In the light of the above facts and circumstances of the case, this matter is remitted to the Secretary, Education Department, Government of Sindh, to look into the matter and examine the case of Petitioners for promotion in the higher rank and if at all they meet the promotion criteria, they shall be given their due promotion to the next rank under the law without looking into the impugned order dated 04.08.2020 as discussed supra. The aforesaid exercise shall be undertaken within one month from the date of receipt of this order."
(Emphasis supplied)

We have confronted the Petitioner's Counsel as to how and in what manner, we can initiate contempt proceedings when the order has not given any concrete directions or recorded findings as to the eligibility of the Petitioners for promotion inasmuch as the

only direction and observation which we could see is, “*to look into the matter*” and “*if at all they meet the promotion criteria*” and learned Counsel for the Petitioners has not been able to satisfactorily respond except referring to subsequent orders dated 10.02.2022 and 15.03.2022, as according to him, the Court has taken notice of the conduct of alleged contemnors and has even issued show cause notice to the alleged contemnor.

Insofar as both these orders are concerned, they have been passed subsequent to disposal of this Petition and in that respect no contempt can be alleged for violation of order dated 16.02.2021. Moreover, at best, we can observe that the two subsequent orders have been passed due to lack of proper assistance to the Court, whereas, apparently, the order dated 16.02.2021 stands complied with by way of order dated 21.10.2021 passed by Secretary, Government of Sindh.

Accordingly, we are of the view that the order of this court through which the Petition was disposed of stands duly complied with, whereas, the matter of contempt is between the alleged contemnor and the Court. In the given facts and circumstances, it cannot be made a tool to seek setting aside of any subsequent order(s) which may have been passed. Accordingly, the show cause notice issued to the alleged contemnor stands discharged. Before passing of this order, we had asked the Petitioners Counsel not to press this contempt application and seek appropriate remedy by impugning the order dated 21.10.2021 and the Petitioners Counsel has refused to accede to such proposal.

In view of the above, this application has served its purpose and is accordingly dismissed as infructuous.

J U D G E

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Arshad/