

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

C. P. No. D-1521 of 2021

Present:

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

Petitioner : Khalid Lateef through M/s.
Fayyaz Ahmed, Ghulam
Mustafa and Mehboob A.
Zardari, Advocates.

Respondent No.1 : Federation of Pakistan through
Kazi Abdul Hameed Siddiqui,
DAG.

Respondents No.2&3. : Registrar of Companies & Joint
Registrar of Companies,
through Saad Abbasi, Advocate.

Date of hearing : 26.09.2022.

ORDER

YOUSUF ALI SAYEED, J. - Professing to be the Owner of 94% shares of the issued and paid up capital of a Company by the name of Global Housing Developers (Pvt.) Limited, and to be its Chief Executive Officer, the Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, seeking to impugn the Order dated 18.11.2020 made by the Securities & Exchange Commission of Pakistan (“SECP”) on the Appeal filed by the Petitioner against the

cancellation of the Statutory Form and Returns of that Company, with it being prayed that the Order be set aside and the Returns of the Company reflected in Paragraphs 3 & 4 thereof be declared to be the product of the malafide, biased and partial conduct of the Official Respondents and that the SECP be directed to issue Form-29 as earlier accepted in the year 2014.

2. A perusal of the impugned Order reflects that the matter essentially arose from a dispute between the Petitioner and one Maqsood Ahmed, who is said to hold a 6% shareholding in the Company and was initially arrayed as a Party to these proceedings, but then deleted vide an order dated 03.03.2021. The concluding paragraph of the impugned Order of the SECP reads as follows:-

“20. The instant matter is a dispute over shareholding and directorship of the Company and the returns in question report changes in directorship and shareholding. The acceptance of these returns by the registrar would admit the right of one party which will be a violation of section 466 of the Act and would be tantamount to assuming power of the Court, particularly in this matter where a party has already filed a petition under section 152 of the Ordinance (now section 126 of the Act). I have also observed that the parties have entered into various MOUs/agreements, security of which is beyond the jurisdiction of this office. Therefore, I do not find any reason to interfere in the Impugned Order. This office shall abide by the decision of the Honourable High Court on determination of the rights of the parties and documents in question shall be processed accordingly.”

[sic]

3. As it transpires, the Petitioner is also one of the Plaintiffs in Suit No.2346/2017 pending before this Court on the Original Side, where a dispute in relation to the shareholding of the Company remains sub judice; Maqsood Ahmed is one of the Defendants in that Suit, wherein it has been prayed, inter alia, that this Court may be pleased to:-

- “a. Declare that the Plaintiff No.2 to 5 are the lawful shareholders/ directors of the Company and that the Plaintiff No.2 is the legally constituted Chief Executive Officer (CEO) of the Plaintiff No.1 (Company).*
- b. Declare that all such documents, forms, returns and circulars of Plaintiff No.1 (Company) which were filed after 01 march, 2015 with the Defendant No.8 (SECP) submitted by the Defendant No.1 to 7 are illegal, unlawful and manipulated/ managed documents.*
- c. Direct the Defendant No.8 to produce the original of the Form 29 and Form A, annual return submitted by the Defendant No.1 to 7 on March 02, 2015 and impound the same.*
- d. Cancel all such documents, forms, returns and circulars of Plaintiff No.1 (Company) which were filed after 01 March, 2015 with the Defendant No.8 (SECP) by the Defendants No.1 to 7 as being managed, manipulated and forged and this Hon’ble Court may also in its discretion so judge it to be delivered up and cancelled.*

4. Under the given circumstances, where a factual controversy is clearly involved, and there is an overlap between what is sought through this proceeding vis-à-vis the scope of the prayers advanced in the pending Suit, the matter properly ought to be resolved through the Court of Civil Jurisdiction. As such, no case for intervention through the Constitutional Jurisdiction of this Court stands made out. The Petition stands dismissed, leaving the Petitioner to pursue his remedy in accordance with law through the appropriate proceeding.

JUDGE

CHIEF JUSTICE

MUBASHIR