

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Muhammad Junaid Ghaffar, J.
Agha Faisal, J.

C P D 716 of 2023 : Benish Mehboob vs.
Government of Pakistan & Others

For the Petitioner : In Person

Date/s of hearing : 28.02.2023

Date of announcement : 28.02.2023

ORDER

Agha Faisal, J. This petitioner seeks implementation of an order, setting aside an order of outright confiscation of a smuggled vehicle, of the Customs Appellate Tribunal Bench I at Karachi dated 03.03.3022 (“Tribunal Order”) in Custom Appeal K-7583 of 2021 (“Appeal”), notwithstanding the apparent fact that the petitioner was not the appellant in the Appeal and has no actionable nexus therewith. On the first date of hearing the following order was passed:

“06.02.2023

Petitioner, Beenish Mehboob, is present in person.

1. Urgency granted.
2. Exemption granted subject to all just exceptions.

3&4. Petitioner who claims to be an Advocate of this court has filed this petition claiming to an attorney of the petitioner and on perusal of the memo of petition and supporting affidavits it appears that initially the petition was filed by one Adam Khan and corrections have been made with ink on the first page of the petition, whereas, the next page has been changed by way of insertion of a photocopy of ledger paper. It further appears that insofar as the affidavit at page 29 of the petition is concerned, it still shows the name of the Petitioner as “Adam Khan”. While confronted, it is stated by the attorney that she is not the attorney; but a petitioner herself. This claim is not supported by the record available before us. She is directed to come prepared on the next date to satisfy as to how an advocate can become attorney of a petitioner.

Office shall also explain its position as to how and in what manner, the petition has been entertained and corrections have been permitted in as above. The concerned official shall be in attendance before the Court on the next date of hearing to explain this position.

To come up on 28.02.2023.”

2. Today, the petitioner appeared in person and abjured addressing the Court, as directed earlier, and on the contrary insisted that she may be allowed to withdraw the petition with permission to file afresh. Needless to state that such a request was misconceived, hence, denied.

3. Our observations with regard to this petition and the correlated conduct of the petitioner are as follows:

a. The appellant before the Tribunal was Adam Khan and *prima facie* the only place the petitioner finds mention in the Tribunal Order is in the title ostensibly as the attorney of the appellant Adam Khan.

b. There is a Detention receipt dated 10.04.2021 available on file and the same is also issued in the name of Adam Khan.

c. A copy of a certificate of registration is placed on file, however, it does not refer to either Adam Khan or the petitioner as the owner. The name appearing thereat is Riaz Ahmed.

d. No other document has been placed on file, however, paragraph 4 of the Tribunal Order records that the Appeal was filed by Adam Khan and it was he who claimed ownership of the vehicle.

e. The index of the present petition shows Adam Khan to be the petitioner, however, the typed name has been crossed out in ink and the name of the petitioner hand written instead. The affidavit supporting the memorandum of petition has Adam Khan in the title and the same has been sworn by the petitioner, representing herself to be the attorney of the petitioner.

f. Three applications, being CMA 3301 of 2023, CMA 3302 of 2023 and CMA 3303 of 2023, also show Adam Khan to be the petitioner, however, the typed name has been crossed out in ink and the name of the petitioner hand written instead. The respective corresponding affidavits supporting the applications have Adam Khan in the title, however, the all three affidavits have been sworn by the petitioner representing herself to be the attorney of the petitioner.

g. Despite having been confronted and provided an opportunity to provide an explanation, the petitioner has failed to do so.

4. The petitioner has represented herself to be a practicing advocate of this Court, however, the same does not confer any license upon the petitioner to act in a manner not befitting an officer of the Court. While conscious mischief is reasonably apprehended in this matter, however, out of compassion we do hereby confine our findings to the case itself and direct no further proceedings with respect to the petitioner herself.

5. The petitioner has failed to demonstrate any *locus standi* to maintain the present petition and even otherwise no *bona fides* are apparent from the record / conduct before us, therefore, this petition, along with pending applications, is hereby dismissed in *limine*.

6. The order dated 06.02.2023 also directed the office to explain its position in this matter. The reply has been filed by Israr Ahmed (Senior Office Associate – Additional Registrar Writ). The reply appears to be unsatisfactory, therefore, Office is directed to prepare a separate file, containing a copy of the order herein dated 06.02.2023 and the aforesaid reply and place the same before us for further proceedings.

JUDGE

JUDGE