

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP D 2384 of 2023

Date	Order with signature of Judge(s)
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1. For order on CMA No.12864/2023
2. For order on CMA No.11474/2023
3. For hearing of main case

31.05.2023

Dr. Shahnawaz Memon, advocate for the petitioner

The petitioner, representing itself to be an association of Government contractors, has filed this *quo warranto* petition against the respondent no. 5, being a project director Local Government Projects. On the first date of hearing, petitioner's learned counsel was required to satisfy the Court with respect to the *bona fide* of the petitioner, however, he failed to do so on the said date and the same remains the case today.

A writ of *quo warranto* is a judicial remedy by virtue whereof a holder of public office may be called upon to demonstrate the right where under he holds office, failing which he may be ousted from such office¹. Such proceedings are inquisitorial in nature, as opposed to adversarial, hence, it is imperative to consider the *bona fides* of the petitioner. In the present case the entire case articulated before us was that the award of Government contracts, being made with the participation of the respondent, is unacceptable to the members of the petitioner. Notwithstanding the fact that such a plea is untenable from the record demonstrated, the same could also not be sustained on the anvil of the *bona fide* requirement².

Article 199 of the Constitution contemplates the discretionary³ writ jurisdiction of this Court and the said discretion *may* be exercised in appropriate circumstances. In the present matter no case has been set forth before us for invocation of writ jurisdiction. In view hereof, this petition and listed applications are hereby dismissed in *limine*.

J U D G E
J U D G E

¹ Per *Mansoor Ali Shah J.* in *Barrister Sardar Muhammad vs. Federation of Pakistan & Others* reported as *PLD 2013 Lahore 343*.

² Per *Mian Saqib Nisar CJ* in *Muhammad Hanif Abbassi vs. Jahangir Khan Tareen* reported as *PLD 2018 Supreme Court 118* - Relief in the nature of *quo warranto* should not be allowed as a matter of course, rather the conduct and the *bona fides* of the petitioner, the cause and the object of filing such petition was of considerable importance and should be examined. It should be ascertained if the petition had been filed with some *mala fide* intent or ulterior motive and to serve the purpose of someone else as the remedy should not be allowed to be a tool in the hands of the petitioners, who approached the Court with *mala fide* intentions and either had their own personal grudges and scores to settle with the holder of a public office or were a proxy for someone else who had a similar object or motive.

³ Per *Ijaz Ul Ahsan J.* in *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as *2021 SCMR 425*; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as *2010 SCMR 105*.