

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-1299 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE (S)
	1. For orders on office objections.
	2. For hearing of M.A. No.7152/2023.
	3. For hearing of main case.

17.10.2023

Mr. Noor-ul-Haq Qureshi, Advocate for petitioner along-with Mr. Ammar Ahmed.
Mr. Muhammad Yousuf Rahupoto, Assistant Advocate General, Sindh along-with
Mr. Ali Akbar Siyal consultant admin / legal officer & focal person PUMHS SBA on
behalf of respondent No.4.

Barrister Syed Ali Ahmed Zaidi, Advocate for respondent No.4.

==

Petitioner has challenged the appointment of Respondent No.5 as Director Finance on the additional charge basis. The impugned Notification is at page-63. Contended that post of Director Finance is a tenural post in terms of Section 16 of the University Act, viz. the Peoples University of Medical & Health Sciences for Women, Shaheed Benazirabad, Act, 2009; that during his tenure, Petitioner performed well and that is why he was given Letter of Appreciation, but since Respondent No.5 is a favourite of those having political clout, therefore, he was given this additional charge who was not even qualified to hold this Post, as he was an Accounts Officer. Referred to the Special Audit Report (at page-67), concerning Shaheed Mohtarma Benazir Bhutto Medical University Larkana, wherein a list of persons have been mentioned who were appointed in violation of the statutory regulations, in which name of Respondent No.5 is at serial No.24 and it is recommended by the Auditors that an enquiry should be held for fixing the responsibility. Further contended that after initiation of selection process by the Government of Sindh with regard to different posts including that of Director Finance, in which Petitioner also participated, the same should be filled-up purely on merits, but, Respondents are trying to accommodate Respondent No.5; further alleged ground of discrimination that in case of all other Public Sector Universities, the persons who were holding position of Director Finance were called upon to continue in the office till a fresh appointment is made, but only Petitioner was ousted in the above manner.

The above arguments are refuted by Mr. Ali Ahmed Zaidi, Advocate, representing Respondent No.4-University. His contention is that the selection process started timely, but Notification is to be issued by the Sindh Government, which is till date awaited. Vehemently argued that due to restraining order, functioning of Respondent No.4 is seriously hampered, because Petitioner is holding an important position of Director Finance and is guilty of continuous insubordination. Argued, so also mentioned in his Counter-Affidavit, that Petitioner is a permanent employee of the Quaid-e-Awam University of Engineering Science and Technology Nawabshah, and does not have any vested right to retain the post of Director Finance at the Respondent No.4.

Learned AAG has supported the impugned Notification and states that it is the discretion of the Government under the relevant law to appoint a suitable candidate. By referring to his Comments, learned AAG states that selection process had started in which 118 candidates appeared and the written test were conducted by the IBA Karachi. Except five all other candidates failed the written test including the Petitioner and Respondent No.5.

Arguments heard and record perused.

It is not disputed that Respondent No.5 is holding the charge of Director Finance as a stop-gap arrangement till the appointment of a regular Director Finance (paragraph g of the counter-affidavit of Respondent-University). The fact of the matter is that selection process has been completed. The list of successful candidates is appended with the Para-wise Comments of Respondent No.2, which shows that five (05) candidates have secured more than 90 marks. Government of Sindh should immediately appoint a competent and suitable person as Director Finance in Respondent No.4 (University) as required by Section 16 of the above Statute.

It is ironic that Respondents 1 and 2 have delayed the matter of appointment of Director Finance in the Public Sector Universities. Education should be a top priority for any Nation or Society and those who are at the helm of the affairs. Till date no enquiry is done as recommended in the Special Audit Report (*ibid*). This prima facie negligence on the part of official Respondents is unacceptable.

Consequently the impugned Notification of appointing Respondent No.5 to hold the office of Director Finance as an additional charge, is **set-aside**.

Respondents No.1 and 2 are directed to immediately implement the recommendations of the Special Audit Report and submit a compliance Report in this Court through its Additional Registrar within four weeks from today. They should expedite the entire process of selection and appointment of Director Finance, in terms of Section 16 of the above Statute, preferably within few weeks. Till a fresh appointment is made, the senior most person of Finance Department of Respondent No.4 will act as Director Finance and not the Petitioner.

In the above terms this Petition stands disposed of.

JUDGE

JUDGE