

IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-59 of 2014
[Malir Development Authority v. Province of Sindh & others]

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Osman Ali Hadi

- 1.For order on office objection
- 2.For hg of CMA No.255/14
- 3.For hg of main case

06.05.2025.

Mr. Khurram Iqbal, advocate for petitioner.
None present for respondents.

O R D E R

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MUHAMMAD IQBAL KALHORO J: Respondent No. 3, on whose behalf, no one is present today, filed a complaint dated 28.06.2008 against MDA before Provincial Ombudsman stating that he is a representative of Al-Faran Multipurpose Co-operative Society Limited which had applied for allotment of 50 acres of land in KDA Scheme No.45, Deh Taiser Town, Karachi and had deposited an amount of Rs.10,00,000/- (One Million) as first installment. The Scheme No. 45 was initially with KDA and subsequently the same was transferred to MDA; hence, he was asked to contact with DG, MDA.

2. On his doing so, he was assured that after the paper work, the land would be allotted to the society. His case was that even after 22 years of deposit of Rs.10,00,000/- in the year 1987, the society was not given the land; hence the complaint. The complaint was taken up by the Ombudsman and decided vide order dated 07.11.2012 directing the DG, MDA to allot 50 acres of land to the said society. The decision was challenged by MDA before the Governor Sindh through a representation in terms of Section 32 of Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991. This representation/appeal has been

dismissed by the Governor on the ground of being time-barred. Petitioner has been communicated such decision through a letter dated 22.04.2013.

3. Learned counsel for petitioner has argued that the appeal was filed within time after receiving decision of the Ombudsman; that the Governor did not afford an opportunity of hearing to the petitioner or put it on notice to satisfy about limitation question and just on consideration of the two dates i.e. date of decision and date of institution, dismissed the representation/appeal of the petitioner without however taking into account the time elapsed between applying for the certified true copy of the decision and its provision to the petitioner. Learned counsel has further argued that beside the point of limitation, the Governor was required to consider merits as the Provincial Ombudsman had no authority to pass such a decision and direct MDA to allot 50 acres of land in the Scheme where no land is available for allotment.

4. We have seen the impugned letter. It seems that without hearing the petitioner, the Governor Sindh on his own dismissed the representation/appeal of MDA considering it as time barred. The law required the Governor to at least put the petitioner on notice to satisfy him about the limitation, as the question of limitation is a mixed question of law and fact. The plea of the petitioner that the time lapsed was due to time spent in obtaining certified true copy of the decision was not even taken into consideration by the Governor while dismissing its appeal.

5. Beside the question of limitation, there was a serious question to jurisdiction of the Ombudsman to pass such order for allotment of the land. But even that was not considered by the Governor to justify

hearing of the appeal on merits and he dismissed the same. The decision itself has not been communicated to the petitioner and simply by a letter the petitioner has been conveyed information about dismissal of its appeal, which does not fulfill the requirement of provisions of General Clauses Act.

6. Therefore, we set aside the decision of the Governor, remand the matter to him to afford an opportunity of hearing to petitioner as well as respondents and decide the case afresh by attending to the question of jurisdiction of Ombudsman as well as limitation by considering evidence produced by the parties.

The petition is accordingly disposed of in above terms along with pending application.

JUDGE

JUDGE

HANIF