

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P.No.3408 of 2021

Mst. Ghazala Amjed

**Versus**

The Chairman, Board of Directors, Pakistan Real Estate Investment &  
Management Company (Private) Limited (PRIMACO) and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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**28.09.2021     Mr. Rustam Malik, Advocate for the petitioner.**

Through the instant writ petition, the petitioner, Mst. Ghazala Amjed, who had been issued notice dated 28.07.2021 for the termination of a lease agreement by the Pakistan Real Estate Investment and Management Company (“PRIMACO”), seeks the issuance of a writ of *quo warranto* to remove respondent No.4 (Brig. (Retd.) Tariq Hussain Murreddi) from the post of the Chief Executive Officer (“C.E.O.”), PRIMACO.

2. The petitioner has not placed on record the appointment notification of respondent No.4. The contents of the petition show that the said respondent has been holding the post of the C.E.O., PRIMACO for the past three years, and is aspiring for extension in his term.

3. Learned counsel for the petitioner submitted that PRIMACO is a subsidiary company of the Employees’ Old-Age Benefit Institution (“E.O.B.I”), therefore, Regulations contained in the Establishment Code are applicable for the appointment of the C.E.O., PRIMACO; that respondent No.4 is a retired armed forces officer and pursuant to Office Memorandum No.10/4/60-E.XIII, dated 03.06.1961, prior consultation with the Ministry of Defense is mandatory before his appointment against a civil post; that since consultation with the Ministry of Defence had not taken place before respondent No. 4’s

appointment, he could not have been appointed as the C.E.O., PRIMACO; that respondent No.4's service record was not considered before his appointment to an important post; that after his appointment, respondent No.4 had misused his official powers for illegal appointments and granted long term leases of PRIMACO's properties to his favorites; that a portion of E.O.B.I.'s commercial property situated at Sector I-8 Markaz, Islamabad was leased out to the petitioner for twelve years but at the behest of respondent No.4, the lease was terminated illegally, vide notice dated 28.07.2021; that the petitioner made representation against respondent No.4's appointment which has not been responded to; and that respondent No.4's appointment and his actions amount to discrimination and exploitation. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

4. I have heard the contentions of the learned counsel for the petitioner and have perused the record with his able assistance.

5. The petitioner has prayed for issuance of writ of *quo warranto*. For instituting such a writ it is not necessary that any fundamental or other legal right of the petitioner is infringed. Any person is free to challenge the validity of an appointment to a public office. However, the Court must be satisfied that the petition is *bona fide* and not motivated by any malice against the person whose appointment is under challenge.

6. A writ of *quo warranto* is not to be issued as a matter of course. It is in the discretion of the Court to refuse or grant it according to the facts and circumstances of the case. It is well settled that the High Court's power under Article 199 of

the Constitution to grant relief to a petitioner by issuance of directions, orders or writs is purely discretionary. This power can be exercised to grant relief only to a person whose conduct does not disentitle him to obtain such relief. The exercise of writ jurisdiction has to be founded on sound discretion and on consideration of recognized judicial principles governing exercise of such discretion. The High Court cannot refuse to take into consideration a petitioner's conduct which disentitles him / her from such relief.

7. The foremost obligation of the Court while hearing a petition seeking the issuance of a writ of *quo warranto* is to inquire into the conduct and motive of the relator and may, in its discretion, decline to issue a writ where it would be vexatious to do so. Reference in this regard may be made to the law laid down in the cases of Tariq Mehmood A. Khan Vs. Sindh Bar Council (2011 YLR 2899), Muhammad Shahid Akram Vs. Government of Punjab (2016 PLC (C.S.) 1335), and Lugman Masud Vs. Government of Pakistan (2015 PLC (C.S.) 526).

8. A writ of *quo warranto* should be refused where it is an outcome of *malice* or ill-will. The Court has to be careful to see whether the attack in the guise of public interest is really intended to unleash a private vendetta, personal grouse or some other *mala fide* object. Reference in this regard may be made to the following case law:-

(i) In the case of Muhammad Arif Vs. Uzma Afzal (2011 SCMR 374), it has been held as follows:-

*“5. There is no cavil to the proposition that the “conduct of petitioner can be taken into consideration in allowing or disallowing equitable relief in constitutional jurisdiction. The principle that the Court should lean in favour of*

*adjudication of causes on merits, appears to be available for invocation only when the person relying on it himself comes to the Court with clean hands and equitable considerations also lie in his favour. High Court in exercise of writ jurisdiction is bound to proceed on maximum "he who seeks equity must do equity". Constitutional jurisdiction is an equitable jurisdiction. Whoever comes to High Court to seek relief has to satisfy the conscience of the Court that he has clean hands."*

- (ii) In the case of Dr. Azim-ur-Rehman Khan Meo Vs. Government of Sindh (2004 SCMR 1299) wherein it has been held as follows:-

*"It is well-settled by now that under Article 199 of the Constitution all the reliefs obtainable under it are purely discretionary and on the principles governing writs of quo warranto the relief under Art. 199 (2)(ii) is particularly so. Quo warranto is not issued as a matter of course. The Court can and will enquire into the conduct and motive of the relator. No precise rule can be laid down for the exercise of discretion by the Court in granting or refusing an information in the nature of quo warranto. All the circumstances of the case taken together must govern the discretion of the Court. The discretion has to be exercised in accordance with judicial principles. The writ is not to issue as a matter of course on sheer technicalities on a doctrinaire approach."*

- (iii) In the case of Ashok Kumar Pandey Vs. The State of West Bengal (AIR 2004 SC 280), it was held as follows:-

*"Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity*

*oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.”*

The law laid down in the said case was quoted with the approval of the Hon'ble Supreme Court in the case of Dr. Muhammad Tahir-ul-Qadri Vs. Federation of Pakistan (PLD 2013 SC 413) wherein it was held as follows:-

*“16. It is abundantly clear that for a person to activate the jurisdiction of this Court as a public interest litigant, for the enforcement of the Fundamental Rights of a group or a class of persons, he must show on the given facts that he is acting bona fide. However, it would be for this Court to decide, on the given facts whether he is acting bona fide or not and whether the petition is suffering from laches or not.”*

(iv) In the case of Aziz-ur-Rehman Ch. Vs. M. Nasiruddin and others (PLD 1965 SC 236), it was held as follows:-

*“The Court from which the writ was sought was entitled to enquire into the conduct and motives of the appellant for such a writ and if the information was considered to be merely of a vexatious nature the Court was entitled to refuse to exercise its discretion in favour of the appellants.”*

9. The petitioner has not annexed respondent No. 4's appointment notification and has not even mentioned date of the said appointment. The

contents of the present petition show that the petitioner harbors vengeance against respondent No.4 for termination of her lease. In paragraph 2 of the petition, the petitioner pleaded as follows:-

*“The petitioner is one of affectee of lease allotment of ground floor in the above mentioned plaza, despite giving maximum offer per square foot (Rs.330) and termination of lease of complete third floor (16000 Sft) of the same plaza just after six months of commencement of lease period.”*

10. The above referred pleading makes it clear that the instant writ petition is vexatious and spirited by personal vendetta, and that the petitioner approached this Court only to settle personal scores with respondent No.4. The High Court must not allow its process to be abused by self-seeking and self-serving persons under the garb of public interest litigants. The High Court must be prudent and careful to see that the person who approaches the Court is acting *bonafide* and not for personal gain or oblique consideration. Since it is apparent that the filing of the instant writ petition is motivated by *malice*, it is liable to be dismissed on that ground alone.

11. In view of the above, the instant petition is dismissed in *limine*. This order however, shall not be treated as a verdict on the legality of the respondent No.4's appointment which could be subjected to a challenge in competently instituted proceedings by a *bonafide* litigant.

(MIANGUL HASSAN AURANGZEB)  
JUDGE