

ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

W.P No.545/2018

Hassan Raza
VERSUS
The Islamabad Club, Islamabad, etc.

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
	01.10.2019.	Mr.Mozaa:n Habib, Advocate for petitioner. Mr.Wasim Abid, Advocate for respondents.

Through this writ petition, the petitioner has prayed for the following relief:-

Therefore, it is most humbly prayed that instant writ petition may graciously be accepted; a writ be issued declaring the impugned demands vide letter No.IC/ACC/2016/1.2/023 dated 16th February 2016 and letter No.IC/ACC/2016/1.1/026 dated 22nd of February 2016 (alongwith the summary of dues and the outstanding dues report) as illegal utterly, unwarranted, against the fundamental Constitutional rights of the petitioner and based on unbelievable; unrealistic, untrue calculations, against the Rules/bye-laws governing the subject;

Declare the act of respondents to convert simple late fee calculation into monthly rests/compound interest tantamount to usurious, illegal and unconstitutional.

And consequently declare that respondents/Managing Committee and Administrator be directed to accept the due according to lawful simple late fee calculation @ 2.5% on principle amount of Rs.9713/- as restoration dues and may also allow the petitioner to use all amenities and facilities of Islamabad Club.

2. Learned counsel for the petitioner contends that petitioner is member of Islamabad Club/respondent No.1, vide life membership No.796NS granted in February, 1986. It is further contended that petitioner due to his frequent traveling abroad due to his business activity had settled outside Pakistan and finally returned back in May 2012 and at that time his Club membership has already been cancelled against reinstatement charges of Rs.16,236,666/-, however, on the request of petitioner the amount

was reduced to Rs.82,68,333/- by the Islamabad Club. It is further contended that bill of such a huge amount has been sent without giving the break-up/summary of the dues. Lastly it has been contended that as per Rule 6(2) of the Islamabad Club Ordinance 1978 late fee can be charged @ 2.5 per month on the principal outstanding bill/dues and as per Rule 6(4) the Islamabad Club can only charge absentee fee as prescribed from time to time and absentee is not liable to pay any other fee or charges.

3. Conversely, learned counsel for respondents contends that instant writ petition is not competent as the petitioner has raised disputed question of facts which can only be resolved through competent Court of jurisdiction.

4. Arguments heard. Record perused.

5. Perusal of record reveals that petitioner is mainly aggrieved with the cancellation of his membership which was cancelled due to non submission of bill/dues which was accumulated with additional amount of Rs.16,236,666/- w.e.f May, 1994 to 07.9.2012 when petitioner filed application for restoration/reinstatement of his life membership of Islamabad Club.

6. The Islamabad Club was established through Ordinance No.XIII dated 17.7.1978 (Administration Ordinance 1978) and as such its status regarding maintainability of writ petition has been settled in the case titled **Administrator Islamabad Club Versus Mrs.B.Ayisha Mustafa (PLD 2019 Islamabad 331)** wherein it was held that Administrator shall be appointed by the Federal Government in terms of Section 6 of the Ordinance who shall subject to any direction issued by the Federal Government, be competent to exercise and perform all such powers and functions as may be necessary for the efficient administration of the affairs

of the Islamabad Club. The said provision and scheme of the law shows that Islamabad Club has no juristic entity and Administrator of the Club is the sole person in which all rights, assets, privileges and liabilities of the club are vested. It has been held in the above mentioned reported judgment that:-

“The Rules and bye-laws of Islamabad Club are for internal management, hence non-statutory. It is trite law that a petition under Article 199 of the Constitution is not maintainable for enforcement of non-statutory Rules or for civil rights, if any. Even otherwise, the essence of a club is to regulate its membership and/or govern its internal functioning and no interference can be made to such regulations and affairs by the Courts would defeat concept of the Club. The decision taken to oust the member and/or to refuse membership are the sole prerogative of the Administration of the Club and such decisions or administrative matters are not justiciable in a petition under Article 199 of the Constitution”

7. While considering the above mandate settled by the Islamabad High Court in the above mentioned reported case, the questions raised by the petitioner in the instant writ petition are also considered to be disputed question of facts in shape of calculation qua the charges against the petitioner as well as appreciation of non-statutory Rules of the Club, therefore, instant petition is not maintainable and same is hereby **dismissed**. However, petitioner is at liberty to approach the Court of plenary jurisdiction for determination of disputed facts, if so advised.

(MOHSIN AKHTAR KAYANI)
JUDGE /