

Form No: HCJD/C-121
ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

Writ Petition No.4090 of 2019

Muhammad Asif Javed Malik.

Vs

The Federation of Pakistan, through its Secretary Establishment Division,
Islamabad and 04 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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**27.11.2019. Agha Muhammad Ali Khan, Advocate for
the petitioner.**

Through the instant petition, the
petitioner calls in question show cause notices
issued on 26.07.2019 and 13.11.2019.

2. Learned counsel for the petitioner,
inter-alia, contended that the petitioner is an
employee of Senate; that he after obtaining
leave from his employer proceeded abroad,
however, during the course of his stay, he
became indisposed, hence the proceedings for
his termination/ removal were initiated and
the show cause notices have been issued. It
was further contended that the show cause
notices have been issued by unauthorized
person, hence the same are without lawful
authority. In support of his contentions,
learned counsel placed reliance on cases
reported as "*Muhammad Yasin and 3 others*

Vs. Government of the Punjab through Secretary Housing and Physical Planning Department and 8 others" (2010 YLR 2207), "Muhammad Riaz Vs. Medical Superintendent, Service Hospital, Lahore and 2 others" [2016 PLC (C.S.) 296] and "Abdul Qayyum Vs. D.G. Project Management Organization, JS HQ, Rawalpindi and 2 others" (2003 SCMR 1110).

3. Arguments on behalf of learned counsel for the petitioner have been heard and the documents placed on record examined with his able assistance.

4. The facts, leading to filing of the instant petition, are duly reflected in the submissions of the learned counsel for the petitioner.

5. The petitioner is still in Canada and seeks to contest the disciplinary proceedings by lingering them on. The challenge to the earlier show cause notice dated 26.07.2019 has been made almost after lapse of three (03) months. It is trite law that show cause notice is merely an initiation of the process and is not a final order amenable to the petition under Article 199 of the Constitution. Though, there is some case law that the show cause notice can be assailed on the basis of

being without lawful authority or jurisdiction. However, at this juncture, I am of the opinion that the petitioner can assail or challenge the authority of a person issuing the show cause notice in reply thereto. The petitioner can always submit the details regarding his indisposition and contest the disciplinary proceedings accordingly through attorney or any other mode.

6. In view of the above, the instant petition is **disposed of** with the observation that the petitioner may file reply to the show cause notices issued to him and in the same can agitate any legal or factual ground in his defense. The respondents shall, if reply to the show cause notice is filed, decide the questions in accordance with law.

(AAMER FAROOQ)
JUDGE

M. Zaheer Janjua