

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

I.C.A.No.154 of 2020

Asmatullah Junejo

**Versus**

Federation of Pakistan through Secretary, Ministry of Interior, etc

<b>Date of Hearing:</b>	16.07.2020
<b>Appellant by:</b>	Mr. Khurram Mehmood Qureshi, Advocate,
<b>Respondents by:</b>	Khawaja Muhammad Imtiaz, learned D.A-G, Mr. Ali Asghar, Joint Secretary and Mr. Awais Javed, Section Officer, Ministry of Interior, Islamabad, Mr. Qaiser Masood, Additional Director, F.I.A.

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**MIANGUL HASSAN AURANGZEB, J:-** Through the instant Intra Court Appeal, the appellant, Asmatullah Junejo, impugns the judgment dated 05.06.2020 passed by the learned Single Judge-in-Chambers, whereby writ petition No.492/2020 filed by the appellant/petitioner was dismissed. In the said writ petition, the appellant had impugned (i) the Office Memorandum (“O.M.”) dated 14.01.2020 issued by the Ministry of Interior, whereby the said Ministry withdrew its earlier O.M. dated 30.12.2019 through which the Ministry of Foreign Affairs had been requested to determine the diplomatic status of the officers/officials selected for posting at the newly approved Federal Investigation Agency Immigration Link Offices (“F.I.A. Link Offices”) at the Embassies of Pakistan in Turkey, Italy, U.A.E. and Spain, and (ii) the letter dated 14.01.2020 from the Ministry of Interior to the Director General, Federal Investigation Agency (“F.I.A.”), informing the latter that the Minister had not approved the officers/officials selected/nominated for posting abroad, and that nominations of officers for foreign postings would be made after a policy is framed by a Committee consisting of Additional Secretary, Ministry of Interior and Additional Director General, F.I.A.

2. The record shows that as a part of the re-structuring of F.I.A., posts had been created for Liaison Officers in some of Pakistan’s Diplomatic Missions Abroad. On 23.08.2019, a three-member Committee was constituted to conduct walk in interviews for selecting officers for posting in F.I.A. Link Offices in Turkey, Italy, U.A.E. and

Spain. After conducting the interviews, the said Committee recommended three officers for F.I.A. including the appellant for the said posting. The appellant was recommended to be posted in Pakistan's Diplomatic Mission in Italy. The selection of the three officers including the appellant, had been duly approved by the Director General, F.I.A. on 05.12.2019. After the said approval, vide O.M. dated 13.12.2019, F.I.A. requested the Ministry of Interior to process the cases of the selected officers for the determination of their diplomatic status. Vide letter dated 30.12.2019, the Ministry of Interior requested the Ministry of Foreign Affairs to determine the diplomatic status of the officers selected for posting at the F.I.A. Link Offices in the Embassies of Pakistan in Turkey, Italy, U.A.E. and Spain. Vide letter dated 02.01.2020, the Ministry of Interior informed the Director General, F.I.A. that the Minister for Interior had directed that no one will leave for foreign posting without the Minister's approval which would be accorded after he interviews the nominated officers. The interview of the nominated officers was scheduled to be held on 08.01.2020. Vide O.M. dated 04.01.2020, the Ministry of Foreign Affairs informed the Ministry of Interior that diplomatic status had been granted in respect of three selected officers including the appellant. On 16.03.2020, the Establishment Division gave a No Objection Certificate ("N.O.C.") for further process of the petitioner's case for posting in the F.I.A. Link Office abroad. Apparently, the Minister for Interior had not interviewed the three selected officers. After that, the Ministry of Interior, vide O.M. dated 14.01.2020, withdrew its earlier O.M. dated 30.12.2019, whereby the Ministry of Foreign Affairs had been requested to determine the diplomatic status for the selected officers. Furthermore, vide letter dated 14.01.2020, the Ministry of Interior informed the Director General, F.I.A. that the Minister had not approved the officers selected for posting abroad, and that nominations of officers for foreign postings would be made after a policy is framed by a Committee consisting of Additional Secretary, Ministry of Interior and Additional Director General, F.I.A. The said O.M. and letter dated 14.01.2020 issued by the Ministry of Interior were assailed by the appellant in writ petition No.492/2020, which was dismissed by the learned Single Judge-in-Chambers vide impugned judgment dated 05.06.2020. The said judgment has been assailed by the appellant in the instant appeal.

3. Learned counsel for the appellant submitted that the appellant had been undergone a competitive process before he was selected for posting in the F.I.A's Link Office in the Embassy of Pakistan in Italy; that the Director General, F.I.A. had duly approved the appellant's selection for the said posting; that the Ministry of Interior had impliedly approved the appellant's selection by forwarding his case to the Ministry of Foreign Affairs for determination of diplomatic status; that the Ministry of Foreign Affairs had informed the Ministry of Interior that diplomatic status had been granted to the three selected officers including the appellant; that the Establishment Division had also granted N.O.C. in the appellant's favour for the said posting; that strong vested rights had been created in the appellant's favour after his selection had been approved by the Director General, F.I.A. and after his diplomatic status had been determined by the Ministry of Foreign Affairs; and that the Minister for Interior acted without lawful authority by directing that the selected officers would not be posted abroad, and that a fresh process for selecting officers for posting in the F.I.A. Link Offices in the Pakistan's Diplomatic Missions Abroad would be initiated after a policy is made.

4. Furthermore, it was submitted that the learned Single Judge-in-Chambers erred by not appreciating that the appellant had neither sought the striking down of any policy of the government nor had sought interference with any policy of the government; that the government would be at liberty to formulate a policy for the selection of officers posting in the F.I.A. Link Offices in the Pakistan's diplomatic missions abroad but such policy would be applicable for postings after the formation of the policy; and that a decision to make a policy in the future is not a valid ground for scraping the process in which the appellant was selected and his diplomatic status had been determined. Learned counsel for the appellant prayed for the appeal to be allowed and for the impugned judgment to be set-aside.

5. On the other hand, the learned Deputy Attorney-General appeared along with Mr. Ali Asghar, Joint Secretary, Ministry of Interior and Mr. Qaiser Masood, Additional Director (Law), F.I.A. and submitted that since under the Rules of Business, 1973, F.I.A. comes under the administrative control of the Ministry of Interior, the selection of officers for posting in the F.I.A. Link Offices in the Pakistan's Diplomatic

Missions Abroad had to be approved by the said Ministry; that at no material stage did the Ministry of Interior approve the selection of the appellant and two other officers for such posting; that the request made by the Ministry of Interior to the Ministry of Foreign Affairs for the grant of diplomatic status for the selected officers cannot be construed as an approval by the Ministry of Interior; that the Minister for Interior had not interviewed the officers selected by the F.I.A. but was not satisfied with their suitability for foreign posting; that the appellant is at liberty to apply for posting in the F.I.A. Link Offices in the Pakistan's diplomatic missions abroad after a policy is made by the Committee consisting of Additional Secretary, Ministry of Interior and Additional Director General, F.I.A.; and that the impugned judgment dated 05.06.2020 does not suffer from any legal infirmity. Learned Deputy Attorney-General prayed for the appeal to be dismissed.

6. We have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance. The facts leading to the filing of the instant petition have been set out in sufficient detail in paragraph 2 above and need not be recapitulated.

7. The vital question that needs to be answered is whether the approval by the Director General, F.I.A. to select the appellant for being posted at the F.I.A. Link Office in Pakistan's Diplomatic Mission Abroad, and the grant of a diplomatic status to the appellant by the Ministry of Foreign Affairs vests him with the legal right for such a posting to be given effect.

8. We have noticed that the selection of the appellant to be posted in F.I.A. Link Office was made after a "walk in interview." The F.I.A.'s letter dated 23.08.2019 shows that a three-member Committee had been constituted to conduct walk in interviews of the officers willing to be appointed against the posts of F.I.A. Link Offices in Italy, Spain, Turkey and U.A.E. This shows that whichever officers in the F.I.A. manage to walk in for the interview would be considered for the said posting. Postings abroad of public officers ought to be conducted through not just an interview but also a test so that the aptitude and ability of the officers competing for such a posting is adequately gauged. We are of the view that walk in interviews are not a substitute

to a competitive process through a written test and interview for the selection of an officer for a posting abroad.

9. Policy guidelines for appointments and postings in Pakistan's Missions Abroad and against Pakistan's seats in International, Multinational, Bilateral and Regional Organizations, Fora and Bodies are set out in the Establishment Division's O.M. dated 16.02.2016. These guidelines were issued after being approved by the Prime Minister. These guidelines provide an elaborate process through a written test and interview for the selection of officers in Pakistan's Diplomatic Missions Abroad. Learned counsel for the appellant as well as the learned Deputy Attorney General were in unison on their submission that the said policy guidelines did not apply to the selection of officers in F.I.A. for posting in the F.I.A. Link Offices in Pakistan's Diplomatic Missions Abroad.

10. We have noticed that there was no criterion framed prior to the walk in interviews for the selection of Counselor Immigration (BS-19/18). Although the Selection Committee may have considered matters such as the length of service, experience of working in immigration, anti-human trafficking cell, administration and finance while conducting the interviews, there is nothing on the record to show that a criteria was issued prior to conducting the walk in interviews. The Committee constituted for the selection of officers had selected the appellant, a BS-19 officer for posting at the F.I.A. Link Office at Pakistan's Diplomatic Mission in Italy. The minutes of the meeting in which the said Committee had selected the appellant show that although for selection of Assistants (BPS-16) there was the requirement of a written test of 90 minutes duration having multiple choice questions on information technology, administrative and financial matters, office procedure, English language and general knowledge, there was no such requirement of a written test for the selection of BS-19/18 officer. In this perspective, the decision of the Minister for Interior to require a policy to be framed providing guidelines for the selection of officers in F.I.A. for posting in the F.I.A. Link Offices in Pakistan's Diplomatic Missions Abroad cannot be faulted or termed as illegal. The selection of officers for important postings such as those in Pakistan's Diplomatic Missions Abroad ought to be made on the basis

of an objective criterion and by giving an adequate opportunity to all willing and eligible officers to participate in the competitive process.

11. In view of the above, we do not find any merit in this appeal which is accordingly dismissed with no order as to costs. It is, however, expected that the policy for the selection of officers in F.I.A. for posting in the F.I.A. Link Offices in Pakistan's Diplomatic Missions Abroad would be made at the earliest.

(AAMER FAROOQ)  
JUDGE

(MIANGUL HASSAN AURANGZEB)  
JUDGE

ANNOUNCED IN AN OPEN COURT ON \_\_\_\_\_/2020

(JUDGE)

(JUDGE)

Qamar Khan\*

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