

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

**W.P No.498 of 2020**

Shahid Mehmood  
***Versus***  
National Police Foundation, etc

Petitioner by:	Mr. Nadir Ali Siddiqui, Advocate.
Respondent No.1 by:	Mr. Babar Saeed Butt, Advocate,
Respondent No.2 by:	Mr. Umer Ali Khan, Law Officer, NADRA.

Date of Hearing:	05.08.2020
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**Ghulam Azam Qambrani, J:** Through this petition, the petitioner, Shahid Mehmood, has invoked the jurisdiction of this Court filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with the following prayer;-

*“It is humbly prayed that petition may graciously be allowed and following reliefs may kindly be provided to the petitioner.*

1. *By an appropriate Writ the respondent No.1 be directed not to recover charges/amount from the petitioner on account of solid reasons given above.*
2. *Direction may also be issued to the respondent No.2 to unblock the CNIC of the petitioner.*

*Any other relief may also be awarded to the petitioner in the best interest of justice.”*

2. Briefly stated facts of the case are that the petitioner is serving as Manager IP System Deployment in Pakistan Telecommunication Company Limited since 2007. Respondent No.1 (National Police Foundation) issued notice to the petitioner to deposit additional cost of land amounting to Rs.265,900/- against the residential Plot No.203, under Membership No.3090, measuring 35x65 situated in National Police Foundation E-11, Islamabad, in line with the decision of Hon’ble Supreme Court of Pakistan. The said plot was allotted by the respondent No.1 to the petitioner on account of benami transaction. The total payment of the said plot was paid by the deceased father

Muhammad Alamgir s/o Fazal Din who was a police official in KPK. Later on, the deceased father asked the petitioner to get the said plot transferred in the name of elder brother namely Mr.Khalid Mahmood s/o Muhammad Alamgir which was done on 21.11.1998. The elder brother of the petitioner further sold out the said plot to Mr. Azhar Jamil S/o Fazal Ahmad and Mr. Tahir Ijaz S/o Ijaz Rasool jointly on 17.02.2004 and lastly, it was again sold to Mrs.Talat Najeeb who is owner in possession of a constructed house on the said plot. The petitioner time and again requested the respondent No.1 being a college student and having no source of income to waive him from additional charges on the basis of non-beneficiary. It was also transpired that respondent No.1-authority always demands and receives an undertaking from every transferee at the time of transfer that he/she shall be held responsible for any amount due presently or in future. At the end of July 2019, it came to the knowledge of the petitioner that his CNIC was blocked by respondent No.2 and when he visited its office, he was informed that blockage of CNIC was done due to default and after the visit of office of respondent No.1 and inspite of repeated requests, it was again asked him through demand notice to deposit the outstanding amount. The demand notice of additional charges was issued after approximately 25 years, which is illegal, unreasonable as well as unlawful, hence this petition.

3. Learned counsel for the petitioner contended that the allotment of plot was made on the basis of benami transaction; that the petitioner was not beneficiary of the plot; that the claim can only be made against the last possessor. Learned counsel for the petitioner next contended that the blocking of CNIC for recovery of amount is against the law and justice. Lastly, prayed for acceptance of writ petition.

4. Conversely, learned counsel for respondent No.1 opposed the contention of learned counsel for the petitioner and contended that no new payment has been demanded; that the father of petitioner was never allotted the plot and illegal allotment was made in the name of the petitioner; that by the order of District & Sessions Judge, Islamabad, CNIC of the petitioner has been blocked and that notice of

recovery was also not challenged. Further contended that order of learned District & Sessions Judge has also not been challenged by the petitioner. Learned counsel for respondent No.1 finally prayed for dismissal of writ petition. Learned Law Officer of respondent No.2 submitted that the CNIC of the petitioner has been blocked in compliance of an order passed by learned District & Sessions Judge-West, Islamabad, and if the petitioner clears the outstanding dues against him, his CNIC shall be restored.

5. I have heard the arguments of learned counsel for the parties and have perused the material available on record.

6. Perusal of the record reveals that National Police Foundation, which is a charitable organization, was established on 18.03.1975 for the welfare of police employees. National Police Foundation developed a Housing Scheme in Sector E-11, Islamabad, known as "*National Police Foundation Housing Scheme, Sector E-11, Islamabad*" (hereinafter be called as "**NPFHS**"). The petitioner applied for the membership of the said scheme in 10-Marlas category plot, he was allocated Membership No.3090 on 04.07.1998 and was allotted Plot No.203 (Corner), measuring 250 Sq. Yds./10-Marlas. The petitioner paid an amount of Rs.6,00,350/-.

7. The Apex Court of the country in its judgment dated 17.06.2015 passed in Civil Review Petitions against the judgment dated 31.10.2013 passed in SMC No.11/2011 directed that the Civilians, Bureaucrats, Army Personnel etc were not at all entitled for the allotment of plots in the NPFHS and cancelled their allotments. The Hon'ble Supreme Court of Pakistan in case titled as "Anjum Aqeel Khan and others Versus National Police Foundation through M.D. and others" (2015 SCMR 1348) has held as under:-

*"13. There are three categories of persons in this case. First, where the persons were allotted only one plot. There are further two sub categories in the first category. In first type police officers/officials or employees of the Foundation have been allotted only one plot each and in second type, civilians, bureaucrats, army personnels etc. have been allotted only one plot each. Second, where the persons were*

*allotted more than one plot either in their names or in the names of their family members. Third, where the persons have purchased plots from the original allottees (subsequent allottees).*

*14. So far as the second category is concerned, for what has been discussed above, more than one plot allotted to any person and his family members shall stand cancelled. However, if they want to retain the plots, they can pay the market price of the plots, which shall be determined by the Commission, detail of which is given in the last paragraph of this judgment.*

*15. So far as first sub-category in the first category i.e. police officers and employees of Foundation who have been allotted only one plot is concerned, we are persuaded to hold that they can keep the plots. Though we have found several illegalities in the process of allotment of plots but in the interest of justice, we are not going to cancel their allotment. There is some justification for allotment of plots to them.*

*16. So far as second sub-category in the first category i.e. civilians, bureaucrats, army personnels etc. is concerned, they were not at all entitled for the allotment of plots. Hence their allotment is cancelled. However, if they want to retain the plots, they can pay the market price thereof, which shall be determined by the Commission. The other person(s) who had been allotted only one plot and subsequently they have transferred it in the name of their family members also fall in this category.*

*17. However, so far as the subsequent purchasers/bona fide purchasers are concerned, it would be harsh if their plots are cancelled. Many of them have built houses. After a passage of more than 10 years, depriving them of the plots and the houses constructed thereon will be a grave miscarriage of justice. They have acted in good faith and they are lawful owners in possession of the plots and the market value of the property at present has reached a stage mainly on account of the development and construction by them. They have purchased the plots from the original allottees after having undergone a thorough process of due verification and paid the market price prevailing at that time. If the original allottees had not turned up or had not fulfilled their obligations, the bona fide purchasers cannot be attributed any mala fide. If at all, any amount is to be paid, that should be paid by the original allottees, who are established to have gained unlawfully or who are the beneficiaries of undue enrichment."*

As per the above verdict, it was held that if they want to retain the plots, they can pay the market price of the said plot, which shall be determined by the commission, which was constituted by the Hon'ble Supreme Court of Pakistan. The said commission was headed by Mr. Justice Moulvi Anwar-ul-Haq, Honourable former Judge of the Lahore High Court, Lahore. The said commission submitted his report before the Hon'ble Supreme Court of Pakistan and as per report of the commission, the petitioner has paid an amount of Rs.6,00,350/-, whereas the revised price of the said plot was fixed at Rs.8,66,250/-, as such, the petitioner was held responsible to pay an amount of Rs.2,65,900/-. Record further reveals that the Hon'ble Supreme Court overruled the objections raised against the report of the Commission, vide order dated 01.08.2018. The report of the Commission was made part of the order of the Court and directed the learned District & Sessions Judge, Islamabad, to act as an Executing Court, to ensure implementation of the report. In compliance of the said order, petitioner was issued notices on 14.12.2018 and 30.12.2019 with a direction to deposit an amount of Rs.2,65,900/-, but the petitioner failed to deposit the said amount. Thereafter, the petitioner was issued demand notice dated 07.12.2017 with the direction to pay additional amount of Rs.2,65,900/- in respect of plot No. 203, under membership No. 3090, measuring 35x65, situated in National Police Foundation Housing Scheme E-11, Islamabad, within fifteen days of the issuance of the notice.

8. Record further reveals that the learned District & Sessions Judge-West, Islamabad, vide letter dated 23.11.2019 addressed to the Chairman, National Database and Registration Authority (NADRA) issued a direction to forthwith block the CNICs of 201 defaulter allottees of National Police Foundation Housing Scheme who have failed to clear their respective outstanding dues, despite direction of the Hon'ble Supreme Court of Pakistan and notices issued by the learned District & Sessions Judge. Vide said letter, it was further directed that subject to clearance of the outstanding dues, the CNICs shall be restored. The stance of the petitioner that said plot was allotted by

respondent No.1 to the petitioner on account of benami transaction and the total payment of the said plot was paid by his father namely Muhammad Alimgir is not believable, as according to annexure 'R/1', the petitioner himself applied for membership in National Police Foundation in his private capacity, whereby he undertook that he shall abide by all instructions, bye-laws and building regulations of the foundation/CDA amended from time to time. Thereafter, he was allotted plot No. 203 (Corner) measuring 250 Square Yards/10-Marlas in NPFHS under membership No.3090. As per order of the Hon'ble Supreme Court of Pakistan dated 08.11.2017, it was held as under:-

*"Syed Zahid Hussain Bokhari learned ASC for the Society (National Police Foundation) states that the Police Foundation shall take steps for the implementation of the Report of the Commission and in this regard will notice of demand to each of the allottee of the plot or its subsequent purchaser. He further states that the allottee of the plot or its subsequent purchaser will also be informed about the Commission Report and will be asked that if such person has any objection to the Commission Report, the same be filed before this Court. The National Police Foundation shall undertake this exercise and complete the process preferably within a period of two months."*

9. Through the impugned notice dated 07.12.2017, petitioner was directed to pay the additional amount of Rs. 2,65,900/- with regard to the above said plot, but he failed. If the petitioner has any grievance, he may approach the Hon'ble Supreme Court of Pakistan, for redressal of his grievance.

10. In view of the above, this writ petition having no force is hereby **dismissed**.

**— Ghulam Azam Qambrani**  
**Judge**

Announced in Open Court, on this 7<sup>th</sup> day of August, 2020.

**— Judge**

S.Akhtar