

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

Writ Petition No. 2397 of 2020

All Pakistan NBP Insaf Officers Associations, etc
Vs
Federation of Pakistan, etc

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
------------------------------	----------------------------	-------------------------------------------------------------------------------

11-10-2021

Mr Haseeb Shakoor Paracha, Advocate for the petitioners.
Mr. Faisal Mahmood Ghani, Advocate for NBP.
Mr Imran Farooq, Assistant Attorney General.

ATHAR MINALLAH, CJ.- The petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking a writ in the nature of mandamus.

2. Petitioner no.1 is not a juridical person because no document has been placed on record to confirm its status. To the extent of petitioner no.1, the petition is not maintainable. The petition is also not maintainable because the prayers have been sought against the National Bank of Pakistan, which has its registered office at Karachi. This Court has consistently held that it lacks territorial jurisdiction when a writ is sought against the respondent Bank because its head office is situated in Karachi.

3. The prayer sought in the instant petition is in the nature of seeking a writ of mandamus. It is settled law that in order to seek a writ of mandamus certain pre-requisites are to be complied with before invoking the jurisdiction of a High Court under Article 199 of the Constitution. Reference in this regard may be made to the principles and law laid down by the august Supreme Court in "*District Magistrate, Lahore and another vs. Syed Raza Kazim*" [PLD 1961 Supreme Court 178], wherein it has been held as follows:-

"Now, having regard to the limited scope of the powers vested in the High Courts and this Court by the Laws (continuance in Force) Order to issue writs only of habeas corpus mandamus, prohibition, quo warranto and certiorari, we have to point out that the foundation for an application for a writ of mandamus (which alone is applicable in the present case as the function of the licensing authority is purely administrative) is that there must exist a legal right in the person seeking the writ to insist upon a clear duty being performed by some public officer or authority in respect of that right.

There are other good reasons, too, upon which this application for a writ of mandamus must fail. The accepted conditions for the grant of a writ of this nature are that it must be preceded by a demand of justice and the refusal thereof and that there should be no other equally

expeditious, in expensive and efficacious remedy available to the person seeking this extraordinary remedy."

4. In the light of the above, it is essential for a person who invokes the jurisdiction under Article 199 of the Constitution seeking a writ in the nature of mandamus to explicitly show that there exists a legal right in such a person to insist upon a clear duty being performed by some public officer in respect of that right. Moreover, that a demand for performance of such duty ought to have been made and the same had been met with refusal by the public officer or authority in relation to the right being asserted. A person seeking a writ of mandamus is further required to satisfy the Court that no other equally expeditious, in expensive and efficacious remedy is available to him or her.

5. It is an admitted position that the representations filed by petitioners no.2 to 4 are pending. Writ of mandamus at this stage cannot be granted because there has been no refusal on part of the competent authority. The learned counsel who has appeared on behalf of the National Bank of Pakistan, taking a fair stance, has stated that notwithstanding the fact that the petition is not maintainable for want of territorial jurisdiction, the representations filed by petitioners no.2 to 4 will be considered by the competent authority and dealt with in accordance with law.

4. W.P No. 2391/2020

6. The petition is disposed of accordingly

CHIEF JUSTICE

Asif Mughal/*

Uploaded by IT Department of IHC