

Judgment Sheet

ISLAMABAD HIGH COURT
ISLAMABAD

W.P. No. 1383/2011

Asghar Ali Versus Mansoor Muzaffar Ali, Member, OGRA etc.

(2)

W.P. No. 252/2011

Babar Ali Versus Mansoor Muzaffar Ali, Member OGRA etc.

Petitioners by:

Sahibzada Ahmed Raza Khan Qasuri, Advocate
(W.P. No.1383/2011)
Mr. M. Kokab Iqbal Advocate (W.P.
No.252/2011).

Respondent No.1 by:

Mr. Anees Jillani Advocate

Respondent No. 2 by:

Mr. Abdul Rehman Siddiqui Advocate and Mr.
Tariq Aziz Advocate

Respondent No.3 & 4 by:

Rao Abdul Ghaffar, Standing Counsel

Date of hearing:

04-10-2011

Riaz Ahmad Khan J: This judgment is directed to dispose of
W.P. No. 1383/2011 and 252/2011.

2. Petitioners in both the writ petitions have prayed for a writ of quo warranto to ask respondent No.1 as to under what authority he is holding the post of Member, Oil and Gas Regulatory Authority, Islamabad. According to petitioners, in response to an advertisement published in the newspaper regarding filling up the vacancy of Member, Oil and Gas Regulatory Authority, respondent No.1 had offered himself as a candidate. Total 26 candidates were considered and out of them, 5 were short listed. However, the name of respondent No.1 was not included in the short listed candidates. Even then respondent No.1 was appointed as Member, Oil and Gas Regulatory Authority, Islamabad vide Notification dated 17th August, 2010. Petitioners also alleged that one of the criteria for the appointment of Member, Oil and Gas Regulatory Authority was

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that he should be an eminent professional of known integrity. Petitioners alleged that the respondent No.1 was involved in three F.I.Rs. He remained behind the bars and, therefore, he could not be considered as a man of integrity. Similarly, respondent No.1 did not have the required qualification and could not be appointed on the said post.

3. Learned counsel for the petitioners contended that the respondent No.1 was neither competent nor was a man of integrity, but he had been appointed on the basis of nepotism. It was further submitted that the respondent No.1 had no authority to remain on the said post and the same was required to be declared as unlawful and void ab-initio.

4. On the other hand, learned counsel for respondent No.1 submitted that petitioners have not come to the Court with clean hands, as the list produced by them regarding short listing, is fake and fictitious. It was further submitted that the short listing was done by the Establishment Division and in the said short-listing, respondent No.1 had stood first. Regarding qualification, learned counsel submitted that respondent No.1 had 30 years experience in the relevant field and he had obtained his Natural Gas Engineering Degree on scholarship granted by the Economic Affairs Division in 1974 from Abadan Institute of Oil Technology, Iran. Regarding F.I.Rs, it was submitted that 3 F.I.Rs. were registered against the respondent No.1, when he was Deputy Director (Gas) in the Ministry of Petroleum, in the year 1996 and he was acquitted in all the three F.I.Rs and the Society, which had filed F.I.Rs., itself issued a clearance certificate to the

respondent No.1. These cases were registered against the respondent No.1 by his rivals with malafide intentions. Learned counsel further submitted that appointment of respondent No.1 was in accordance with law and only the Establishment Division had the authority to order the appointment. Learned counsel in support of his contentions relied on 2004 SCMR 1185, PLD 2008 SC 298 and 2003 SCMR 477.

5. Learned counsel for Oil and Gas Regulatory Authority/respondent No.2 supported the contentions of learned counsel for respondent No.1 and submitted that the list of candidates regarding short-listing, produced by the petitioners, is fake, as the same has been prepared by the officers of Oil and Gas Regulatory Authority, infact, they had nothing to do with the short listing and it was the Establishment Division which could short list the candidates. In the said short listing, respondent No.1 had stood first and writ petitions have been filed by the rivals of respondent No.1 with malafide intention. It was further submitted that though the writ of quo warranto can be filed by any person, yet the antecedents of the petitioners are required to be determined and if it is found that petitioners have filed the petition with malafide intention then the relief claimed cannot be granted. Learned counsel for respondent No. 2 in support of his contentions relied on PLD 1969 SC 42, 2004 SCMR 1299 and 2004 PLC (C.S.) 1328.

6. I have heard learned counsel for the parties and have also perused the record.

7. The record shows that respondent No.1 had the required qualification. There is nothing to the contrary on record and there is no evidence even to suggest that qualification of respondent No.1 was not up to the required standard. The contention of learned counsel for the petitioner Babar Ali that the degree from Iran cannot be considered as a valid degree, is not correct. In the first instance, there is no reason to doubt the educational degree issued by Iran and secondly, this Court cannot determine the value of an educational degree.

8. As far as F.I.Rs. are concerned, admitted position in the present case is that the respondent No.1 has been acquitted in the said F.I.Rs. F.I.Rs. were regarding dispute concerning some cooperative society. Learned counsel for the petitioner Asghar Ali admitted that the respondent No.1 has been acquitted and submitted that presumption of guilt, no doubt, is not there against the respondent No.1, however, he has no presumption of innocence. This contention is not correct. The established principle of law is that if a person is acquitted of a charge, the presumption would be that he is an innocent person. Reference in this respect may be made to 2009 SCMR 985 and 1998 SCMR 1993.

9. Learned counsel for petitioners further submitted that since the respondent No.1 had been acquitted on the basis of technicality, therefore, he cannot be considered as an innocent person. This contention too, is not correct, because the respondent No.1 is not a convicted person. By mere lodging of F.I.Rs. presumption of guilt cannot be attached to respondent

been declared competent by legally constituted Committee. In these circumstances, the writ of quo warranto cannot be issued.

12. In view of above mentioned facts, both writ petitions are devoid of any force and are, accordingly, **dismissed**.

(Riaz Ahmad Khan)
Judge

Announced in the open Court on **10-10-2011**.

Approved for reporting

Judge

Wajid

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