

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

Writ Petition No. 2024 of 2018

Zahid Mehboob

Vs

Government of Pakistan, etc.

PETITIONERS BY: Mr. Muhammad Anwar Mughal in W.P  
No. 2024/2018 and Criminal Original  
No. 206/2018.  
Malik Naeem Khalid, Advocate in W.P  
No. 2973/2017.

RESPONDENTS BY: Syed Muhammad Tayyab, Deputy  
Attorney General.  
M/s Ali Nawaz Kharal and M. Bilal,  
Advocates.  
Mr. Masood ul Hameed Malik, Deputy  
Director Legal, Ministry of Federal  
Education and Professional Training  
Islamabad.  
Mr. Abdul Rasheed, Superintendent  
(Litigation) M/o IPC.

Date of Hearing: **15.03.2019.**

ATHAR MINALLAH, C.J.- Through this  
consolidated judgment, I intend to decide the instant petition,  
W.P No. 2973/2017 titled "Faisal Jameel Shah Vs. Chief Scout  
of Pakistan, Pakistan Boy Scout Association, etc." and

Criminal Original No. 206/2018 titled "Zahid Mehboob Vs. Faisal Jameel Shah, etc."

2. The facts, in brief, are that the dispute is regarding appointment to the post of Secretary of Pakistan Boys Scout Association (hereinafter referred to as the "**Association**"). The petitioner in W.P No. 2024/2018, namely Zahid Mehboob was given the acting charge of the post of Secretary of the Association in 2015. The post was advertised and besides Zahid Hussain, the petitioner in W.P No. 2973/2017, namely Faisal Jameel Shah had also submitted application for being considered for appointment as Secretary of the Association. Zahid Mehmood was selected but objections were raised by Faisal Jameel Shah. It appears from the record that the documents of both the candidates were sent for verification to the concerned departments. It is alleged that the documents of Faisal Jameel Shah were not found to be genuine. Faisal Jameel Shah assailed the selection process by filing W.P No. 2973/2017. In the meanwhile, the Secretary, Ministry of Inter Provincial Coordination, Government of Pakistan vide notification, dated 17.05.2018, purportedly ordered that the acting charge of the post of the Secretary be given to Faisal Jameel Shah. The said notification has been assailed by Zahid Mehmood by filing W.P No. 2024/2018. This Court had suspended the operation of the impugned notification, dated 17<sup>th</sup> May, 2018. Zahid Mehmood filed Criminal Original No. 206/2018 alleging therein that he was not allowed by Faisal

Jameel Shah to perform his functions as Secretary of the Association.

3. The learned Counsels for the petitioners have been heard at great length.

4. Faisal Jameel Shah is stated to have retired from service after attaining the age of superannuation and, therefore, to his extent W.P No. 2973/2017 has become infructuous. Even otherwise, the said petition was without merit because it was based on the actions of the Secretary, Ministry of Inter Provincial Coordination, Government of Pakistan. It is noted that the Association has been established under the Pakistan Boy Scouts Ordinance, 1959 (hereinafter referred to as the "**Ordinance of 1959**"). In exercise of powers conferred under section 3 of the Ordinance of 1959, the Association with the previous approval in writing of the Federal Government has notified the Pakistan Boy Scouts Association Rules, 1992 (hereinafter referred to as the "**Rules of 1992**"). Rule 2(3) *ibid* defines "Council" as meaning the National Council constituted under Rule 14, while expression "Secretary" has been defined in sub rule (5) as meaning the Secretary of the Council. Rule 35 provides that the Secretary shall be appointed by the Council in accordance with the service rules of the Association on the recommendation of the Chief Commissioner and subject to the approval of the Chief Scout of Pakistan. The learned

counsels, despite their able assistance, could not show that the Secretary of the Ministry of Inter Provincial Coordination or the Federal Government are empowered regarding appointment of a person to the post of Secretary. A person can only be appointed to the post of Secretary in accordance with the procedure prescribed and that too by the competent authority described under Rule 35 of the Rules of 1992 read with the Ordinance of 1959. The impugned notification, dated 17.05.2018 was, therefore, issued without lawful authority and jurisdiction. The prayer sought in W.P No. 2973/2017 is devoid of merits because appointment was made against the post of Secretary of the Association in violation of Rule 35 of the Rules of 1992. Faisal Jameel Shah had attempted to resist implementation of this Court's order, dated 22.05.2018, passed in W.P No. 2024/2018. However, since the latter has tendered an unconditional apology and has placed himself at the mercy of the Court, therefore, proceedings under the Contempt of Court Ordinance, 2003 are being dispensed with.

5. For what has been discussed above, W.P No. 2024/2018 is allowed and consequently notification, dated 17.05.2018, is declared as illegal and having been issued without jurisdiction. W.P No. 2973/2017 is without merit and, therefore, accordingly dismissed. Criminal Original No. 206/2018 is disposed of in view of the unconditional apology tendered by Faisal Jameel Shah. The Association is expected to fill the post the of Secretary on permanent basis strictly in

accordance with the procedure prescribed under Rule 35 of the Rules of 1992.

**(CHIEF JUSTICE)**

Saeed.