

JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 2989 of 2015

M/s Shifa International Hospital, Islamabad

Versus

Director General, FIA, Islamabad & another.

Petitioner by:	Mr. Zaheer Bashir Ansari Advocate.
Respondents by:	Mr. Saqlain Haider, Assistant Attorney General. Tahir Khan, Assistant Director- FIA, on behalf of respondent No.1. Raheel Ahmad, Deputy Director- CDA, on behalf of respondent No.2.
Date of hearing:	11.02.2021.

Tariq Mehmood Jahangiri, J: The petitioner has filed the instant writ petition with the following prayer:-

“Under the circumstances, therefore, it is respectfully prayed that the inquiry/investigation initiated by respondent No. 1 may graciously be declared as illegal without lawful authority and jurisdiction, letter dated 23.05.2012, 12.06.2012 and notice under section 160 Cr.P.C dated 18.09.2015 may be struck down as such alongwith show cause notice dated 10.09.2015 issued by respondent No.02.

It is also prayed that direction may graciously be issued to respondent No. 2 to give decision on the request made by petitioner and to decide the fate of revised lay out plan submitted by petitioner at the earlier, so that the matter in issue be set at naught”.

02. Learned counsel for the petitioner has contended that the petitioner has raised construction according to the approved plan and has not committed any illegality, as far as minor irregularities are concerned, same can be regularized by respondent No. 2 /

CDA. He has further contended that as the petitioner is not a public servant, as defined in section 21 of P.P.C, so the respondent No. 1 has got no authority to conduct an inquiry or issue notices to the petitioner.

03. Learned Assistant Attorney General assisted by the FIA officials has contended that the FIA has initiated the formal inquiry in accordance with law and has issued notices to the petitioner for provision of record and necessary information, as there was a source report that petitioner in connivance with respondent No. 2 / CDA has committed the violations and caused loss to public exchequer and has also encroached upon the government land. He further stated that all the proceedings have been initiated strictly in accordance with law.

04. Learned counsel for the respondent No. 2 / CDA has contended that, as the petitioner has committed the violations of the terms and conditions of the allotment as well as other By-laws of CDA and has also encroached upon the government land, so the show cause notices etc. were issued in accordance with law.

05. Arguments of learned counsel for the parties have been heard and record has been perused with their able assistance.

06. According to stance of the petitioner, a plot was allotted by respondent No. 02 / CDA approximately measuring 11 acres for construction of a hospital in sector H-8, Islamabad, in year 1988/89. Thereafter the petitioner raised construction in accordance with By Laws of CDA but the respondent No. 1 / FIA sent letters dated 23.05.2012, 12.06.2016 and notice under section 160 Cr.P.C dated 18.09.2015 for conducting an inquiry regarding the alleged illegal possession and construction on CDA land, whereas the respondent No. 2 / CDA also issued show cause

notice dated 10.09.2015 regarding the alleged encroachments / illegalities committed by the petitioner.

07. The respondent No. 1 / FIA has submitted that the source report was received, wherein it was mentioned that petitioner has raised medical college building on the illegally occupied land of CDA, in connivance with the concerned CDA officials and caused immense loss to public ex-chequer as a result, the Federal Investigation Agency, Anti Corruption Circle, Islamabad (ACC/FIA), had registered inquiry No. 20/2012 dated 03.05.2012, and issued notices to the petitioner for providing record and necessary information but due to stay order passed by this Court on 19.10.2015, inquiry was stopped.

08. The respondent No. 2 / CDA has submitted reports / parawise comments, wherein it is mentioned that following violations have been committed by the petitioner for which notices were issued:-

- a. Excess area occupied by M/s Shifa International, towards eastern side of the plot, this area is meant for catchment area of nullah.*
- b. Unauthorized / illegal construction in western, northern and southern setbacks.*
- c. Unauthorized usage of basement.*
- d. Unauthorized construction of roof top.*
- e. Starting the new construction without approval of building plans.*
- f. Functioning of Medical College on the plot.*

It has further been averred by the CDA that plot was allotted for establishment of 500 beds hospital i.e. Shifa International Hospital in sector H-8, Islamabad, which is meant for four story building for hospital / clinic purposes but the petitioner has committed non-

confirming use of building and has established the Shifa Medical College which is not authorized under the law.

09. As the respondent No. 2 / CDA has categorically mentioned in the comments that the petitioner has committed violations and has also encroached upon the land which has not been allotted, put the building for non-confirming use, in addition to this many other violations have been committed for which the CDA is authorized to take action, whereas respondent No. 1 has stated that the inquiry is being conducted on the ground that petitioner in connivance with the officials of respondent No. 2 / CDA has encroached upon the land and has committed the violations of terms and conditions of allotment and established the building for non-confirming use etc.

10. Under Article 199 of the Constitution of Islamic Republic of Pakistan, this Court can interfere or stop / restrain any person from doing any act without lawful authority and is of no legal effect but both the respondents are performing their duties strictly in accordance with law, so no interference in writ jurisdiction is warranted.

11. It is also a well settled principle of law that no interference should be made in the course of investigation / inquiry being conducted by the law enforcing agencies. CDA is also empowered / authorized to take action regarding violations, irregularities etc.

12. The respondent No. 1 / FIA is directed to complete the inquiry pending against the petitioner as well as to initiate further proceeding if required, strictly in accordance with law. Respondent No. 2 / CDA is directed to ensure the strict compliance of the terms and conditions of the allotment of plot, building By-laws, rules and regulations of CDA as well as other laws of the country. CDA is further directed to decide any petition

filed by the petitioner regarding revised layout plan etc. at the earliest strictly in accordance with law. Both the respondents are directed to submit the compliance report of the aforementioned directions through the Additional Registrar (Judicial) of this Court within a period of 02-months. The Additional Registrar (Judicial) is directed to put up the reports for perusal of this Court.

13. In view of foregoing observations / directions, the instant writ petition stands *dismissed*.

(TARIQ MEHMOOD JAHANGIRI)
JUDGE

Announced in Open Court on 16.02.2021.

JUDGE

Approved for reporting.