

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

**Writ Petition No.1966/2017.**

**Federal Employees Cooperative Housing Society through its President.**

**Versus**

**Director General, Federal Investigation Agency, Islamabad, etc.**

Petitioner by: Raja Inaam Ameen Minhas, Advocate.

Respondents No.1 to 3 by: Mr. Muhammad Haseeb Chaudhry,  
DAG & Mian Muhammad Faisal Irfan,  
AAG.

Respondent No.4 by: Mr. Nasim Ahmed Shah, Advocate  
and Aman Ullah, Advocate.

Mr. Qaiser Masood, Additional  
Director (Law) FIA.

Mr. Riffat Hussain Malik, Advocate  
for interveners.

Wajahat Sultan, S.I, FIA Islamabad.

**Date of Hearing: 11.10.2018.**

**MOHSIN AKHTAR KAYANI, J:-** Through this writ petition, the petitioner/FECHS has assailed the proceedings of inquiry Nos.35/2016 & 36/2016 initiated by the respondents/FIA.

2. Brief facts referred in the instant writ petition are that the petitioner is registered Co-operative Housing Society with Registrar Co-operative Societies, ICT and the respondents/FIA issued a notice to the society U/S 160 Cr.P.C on 06.04.2016 in respect of inquiry No.35/2016, which was initiated on different applications and complaints of several individuals. The petitioner society provided relevant information to the Inquiry Officer and also informed that the matter in issues is pending before the Registrar Co-operative Societies, ICT, who had already exercised his jurisdiction under the Co-operative Societies Act, 1925 as all the questions, disputes, and touching business of the society including allotment of

plots fall within jurisdiction of Registrar Co-operative Societies, ICT and the respondents/FIA has no jurisdiction to inquire the matter in issue.

3. Learned counsel for the petitioner has contended that in terms of section 54-A of the Co-operative Societies Act, 1925 any dispute among the members, past members or with officer of the society or its committee, the same shall be referred to the Registrar, which deal with arbitration mechanism and legislature intent mentioned therein is clear from its wording and no other mechanism is provided to resolve issues of the society and FIA has initiated the inquiries on the affairs of the society, which act is within exclusive jurisdiction of Registrar Co-operative Societies, ICT; that Federal Investigation Agency Act, 1974 was promulgated to deal with certain offences committed in connection with the matters concerning the Federal Government and FIA has jurisdiction to investigate those matters, which fall within its jurisdiction as provided in the schedule; that section 63 of Co-operative Societies Act, 1925 clearly bars exercise of jurisdiction by any Court of any offence punishable under this Act except a complaint in writing by the Registrar .

4. Conversely, learned DAG, Mr. Naseem Ahmed Shah/Advocate for respondent No.4 and Additional Director (Law) FIA have jointly argued the case and contended that there is no bar in exercise of jurisdiction by FIA, if the matters fall outside the scope of Registrar Co-operative Societies, ICT; that a number of allegations have been leveled against the society and its executive body by different individuals for embezzlement, misappropriation, and loss to the funds of the society in violation of CDA bye-laws as well as violation of law, lay out plan and conversion of plots for personal use, which require thorough probe and inquiry and the Co-operative Societies Act, 1925 does not bar the inquiry by the FIA and FIA shall investigate the matter in accordance with their own law.

5. I have heard the arguments and gone through the record.

6. From perusal of the record, it has been observed that layout plan of the petitioner/FECHS was approved by CDA vide letter dated 09.04.2011 of

approximately 2548 Kanal land and 2397 residential plots alongwith other allied land uses, which were subject to certain terms and conditions mentioned in the said letter. Many of the members of the society, who initially paid the entire amount, were given letters of allotment but later on those plots were not in existence as per revised map of the society mainly on the allegations that the President and General Secretary of the society converted the plots into commercial area and relocated different plots without any approval. One of the members namely Abdul Qadeer Malik, who was allotted plot No.8, Street No.72 Jinnah Garden Phase-I, Islamabad, approached the society for possession of the plot, he came to know that the said plot does not exist in the revised map of the society, upon which he filed a complaint, which was entertained as inquiry No.32/2016 and during the pendency of the said inquiry different individuals, members, and affectees of the society filed several applications to FIA against the President Col. Nazar Hussain Islam and General Secretary Atta Muhammad regarding misuse of their authority for their personal gain and wrongful loss to the society's funds. However, during the scrutiny of the record, following illegalities were observed by the Registrar Co-operative Societies, ICT as well as Inquiry Officer, FIA.

- i. *Agreement for purchase of land without approval of MC and CR.*
- ii. *Grant of Development work without bidding process.*
- iii. *Violation of approved LOP by CDA.*
- iv. *Advance payment made to land providers and land lords without getting the land transferred in the name of society.*
- v. *Allotments of plots without getting membership.*
- vi. *Fake entries of Financial Transactions in Transfer of plots.*
- vii. *Excess payments to contractors.*
- viii. *Allotment of commercial plots without auction/bidding.*
- ix. *Bogus allotment of plots without having any agreement.*
- x. *Role of Muhammad Shahbaz Khan in society affairs.*

7. The above referred violations further aggravated the situation, when CDA cancelled layout plan/approval of Jinnah Garden Housing Scheme, Phase-I, Zone-5, Islamabad vide letter dated 14.09.2018, which reveals that the society was given

many notices, final notice and show cause notice but they have not complied with LOP and the society has converted all sites earmarked for parks, green/open spaces, public buildings areas like schools, hospital, community centre and graveyard into residential and commercial plots and the width of Nullah passing through the scheme has also been reduced and its right of way has been included in the plots, even majority of the land meant for amenities was sold in concealed manner and loss has been caused to general public, even the plots mortgaged with CDA have been allotted to several individuals and buildings have been constructed in violation of mortgage deed and in this regard, the terms and conditions of LOP have been violated with reference to ICT Zoning Regulations, 1992 and Modalities & Procedures.

8. The record further reveals that certain back entries have been made in the record of the society and employees of the society have also caused loss to the society, even bogus allotments have been issued and in one of the case, Muhammad Shahbaz Khan/property dealer, who was also doing business with the society management, obtained several residential and commercial plots without bidding process, who is also defaulter and huge financial liability is due against him.

9. It has further been observed from the record that several plots were also allotted without proper membership of the society and no bidding process was adopted as per PEPRA Rules, hence, in this regard, the entire background of this case reveals two sets of allegations, which are as under:-

- a. *Dispute raised by the members against the management committee of the society for the personal rights, which were granted to the members in violation of terms of allotments.*
- b. *Violation and losses caused by the executive members to the society, which is public trust.*
- c. *Criminal offence committed by the executive members in terms of Pakistan Penal Code 1860.*
- d. *Offence committed by the executive members under Co-operative Societies Act, 1925.*

10. In view of above issues, I have gone through the Co-operative Societies Act, 1925, which deals with formation, registration and regulations of Co-operative

Societies for the promotion of thrift, self help and mutual assistance amongst agriculturists or other persons with common economic or social interests and for achieving better standards of living. The society has to be established under its bye-laws/constitution and it runs through the management committed and the said society can only act and function after its registration under Co-operative Societies Act, 1925, whereas the government has to appoint a person as Registrar of Co-operative Societies for any province or any portion of the province in terms of section 4 and the Registrar can exercise its powers in terms of section 16A and he can inquire on his own motion or on application of any person regarding working and financial condition of the society in terms of section 43, he may inspect the books and properties of the society, give further directions, take special measures, order the winding up of the society, appoint liquidator and resolve the dispute among the members, past members, committed regarding affairs of the society through arbitration process in terms of section 54 and may hear appeal against the award of the Arbitrator, however, all these powers are meant to protect the rights of the individuals/members and to protect interest of the society. The most powerful body of the society is the General Body as all the powers and management of the society vest in the General Body consisting of all its members in terms of section 18A and all its members will cast their votes in Annual General Meeting or through Special General Meeting and may elect management committee, who cannot exercise any extra powers without approval of Annual General Meeting. The matters shall be placed before the Annual General Meeting for its approval regarding the financial, management and land usage of the society.

11. Besides the above referred rights and powers, the Co-operative Societies Act, 1925 also provides offences under sections 60, 61, 62 & 62A Chapter-IX, which are reproduced as under:-

**60. Offences.** *It shall be an offence under this Act if.*

**(a) Default by a society officer or member.**--- *A society with a working capital of Rs.50,000 or more or an officer or member there of fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything which the society, officer or member is by this*



*Act, or rules made there under required to give, send do or allow to be done; or*

- (b) Willful neglect or default by a society, etc.**--- *A society or an officer or a member thereof willfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act or rules made there under by the Registrar or other person duly authorized by him in writing in this behalf; or*
- (c) Willful furnishing of false information.**--- *A society or an officer or member thereof willfully makes a false return or furnishes false information; or*
- (d) Disobedience of summons, requisition or order.**--- *Any person willfully or without any reasonable excuse disobeys and summons, requisition or lawful written order issued under the provisions of this act or rules made here under or does not furnish any information lawfully required from him by a person authorized to do so under the provisions of this Act or rules made there under.*
- (e) Indulgence in fraudulent activities**— *a member of a society indulges in fraudulent or corrupt activities concerning the management or business of the society, or indulges in any illegal or corrupt practices, as defined in the Punjab Local Government Ordinance, 2001 (XIII of 2001), in the conduct of elections of the managing committee of the society; or*
- (f) Performing acts without approval**— *an officer, an employee of a society or a member of the managing committee of the society performs any act without prior approval of the Registrar or of the general body of the society where such prior approval is required by law; or*
- (g) Making a false report or refusing to do an act**--- *an officer or a member of the internal audit committee of a society refuses or neglects to do an act which he is required by law to do or makes a false report; or*
- (h) Violation of the master plan**--- *a member of the managing committee of a cooperative housing society commits any violation or breach of an approved master plan.*

**61. Penalty for Offences not otherwise provided for.**--- *Every society, officer or member of a society or other person guilty of an offence under this Act for which no penalty is expressly provided herein shall be liable to a fine not exceeding [One thousand rupees]*

**62. Prohibition of use of the word "co-operative".**---

**(1)** *No person other than a registered society shall without the sanction of the Provincial Government trade or carry on business under any name or title of which the word "Cooperative" or its vernacular equivalent forms part:*

*Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title*

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*under which he traded or carried on business at the date on which this Act comes into operation.*

*(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.*

**62.A. Penalty.**— *(1) Whoever contravenes the provisions of sub-section (3) of section 44-C or any direction given by the Registrar under section 44-D shall be guilty of an offence punishable with imprisonment of either description for a term which may extend to six months or with fine or with both.*

*(2) Whoever contravenes an order passed under section 44-E shall be guilty of an offence which shall be punished with imprisonment for a term which may extend to three years but which shall not be less than six months and shall also be liable to be punished with fine.*

*(3) No prosecution under this Act shall be lodged without the previous sanction of the Registrar, which shall not be given except after serving a notice on the party concerned and giving him a reasonable opportunity of being heard.*

*Provided that cognizance of an offence under sub-section (2) of section 62-A may be taken even otherwise than on such complaint."*

12. The above referred limited offences have been explained and to be treated as special offences under Co-operative Societies Act, 1925. Bare perusal of above referred provisions reflects insight to the extent of certain limited internal issues of the society and does not cover the question of *mens rea* in its true perspective. There is no cavil to the proposition that Co-operative Societies Act, 1925 is special law, which governs affairs of the society, its members and past members but it does not provide those offences, which do not cover within provisions of section 60, 61, 62 and 62A and in my humble view, the legislature, after considering the limited role of Co-operative Societies Act, 1925, incorporated section 63 in the Act, whereby no Court shall take cognizance in the offences punishable under this Act except on the complaint in writing made by the Registrar or by a person duly authorized for the purpose by him but this does not mean that FIA, NAB or anti corruption establishment cannot proceed against the delinquent officials or its



members or an individual, who is violating the law i.e. Pakistan Penal Code, 1860 or any other law for the time being in force or defines any other offences.

13. The concept sanction for prosecution through Registrar is limited to the extent of those offences provided under Co-operative Societies Act, 1925. After careful perusal of the Co-operative Societies Act, 1925, I have reached to a firm conclusion that section 63 of the Act imposes restriction only to the extent of offences mentioned in sections 60, 61 & 62 of the Act and as such any offence committed by society's officer or a member, which falls within cognizance of police, FIA, NAB, Anti Corruption, etc, he cannot take shelter of Co-operative Societies Act, 1925. Moreover, offences mentioned in Section 60 of the Co-operative Societies Act, 1925 only cover the conduct of members of the society to the extent of affairs of the society and are meant to smooth lining the functions of the society and as such are to regulate the functions of the society but the same, in any manner, do not cover the offences of corruption and corrupt practices by any officer or member of the society. Section 61 of the Co-operative Societies Act, 1925, in my humble view, is same as E&D Rules of civil servants equip the departmental authorities to proceed against civil servants but on commission of cognizable offence by civil servant, the police, FIA, NAB and anti corruption establishment, etc. are free to proceed against the civil servants in accordance with criminal justice system. I have also gone through the Federal Investigation Act, 1974, which deals with the investigation in certain offences committed in connection with matters concerning Federal Government and for the matters connected therewith and it deals with power of public servant defined in section 2(e), which is reproduced as under:-

*"Public Servant" means a public servant as defined in section 21 of the Pakistan Penal Code (Act XLV of 1860), and includes an employee of any corporation or other body or organization set up, controlled or administered by the Federal Government."*

14. The above referred definition empowers FIA throughout Pakistan to search and arrest a person or seizer of the property in terms of section 3 of the Act regarding those offences, which were specifically mentioned in the schedule and the

Federal Government may, by notification in official gazette, can amend, modify and omit any entry in the schedule in terms of section 6 of the Act. The schedule provides 38 kinds of enactments, in which FIA can exercise its jurisdiction, however, besides the said entries, if offences U/Ss 120-B, 121, 122, 123, 123-A, 124, 124-A, 161, 162, 163, 164, 165, 165-A, 168, 169, 175, 182, 183, 186, 187, 188, 189, 201, 217, 218, 224, 225, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 263, 300, 301, 324, 323, 333, 334, 335, 336, 337, 337-A, 337-B, 337-C, 337-D, 337-E, 337-F, 342, 348, 353, 365-A, 366-B, 383, 402A, 402B, 402C, 403, 404, 406, 407, 408, 409, 411, 418, 419, 420, 435, 436, 440, 462A, 462B, 462C, 462D, 462E, 462F, 466, 467, 468, 471, 472, 473, 474, 475, 476, 477A, 489A, 489B, 489C, 489D, 489E, 489F, 499, 500, 501, 502, 506, 507 of Pakistan Penal Code, 1860 are committed by a public servant as covered in section 21 of PPC, it gives jurisdiction to FIA to inquire into such matters and no bar exists to restrict inquiry and investigation of FIA under the law.

15. I have made comparison of section 60, 61, 62 and 62A of Co-operative Societies Act, 1925 with the above referred offences of Pakistan Penal Code, 1860, whereby only few offences overlap with the mentioned offences of Pakistan Penal Code, however, their procedure in general is different vis-à-vis two laws. In Co-operative Societies Act, 1925, the Registrar has to make an inquiry in terms of section 43 and after inquiry, if he comes to the conclusion that certain offence provided in section 60 onwards have been committed, he may give sanction for prosecution of the said offences, however, no sanction is required in any other offence of PPC or which were provided in schedule of FIA Act, 1974. Reliance is placed upon **PLD 1992 Karachi 167(Mubarik H. Siddiqu vs. Sajjad Hassan Khan)**. Even otherwise, the officers of the society and members of executive committee fall within definition of public servants, therefore, any act on their part pertaining to corruption, misappropriation of funds, embezzlement, fraud, loss to the society falls within the ambit of section 5 of the Prevention of Corruption Act, 1947, which exclusively falls within schedule at entry No.5 of FIA Act, 1974,

hence, the jurisdiction of FIA is wide and exclusive to deal with such kind of affairs, however, FIA is at liberty to seek an appropriate help from inquiry conducted by the Registrar Co-operative Societies, ICT in terms of section 43 of the Act. The Registrar Co-operative Societies, ICT by exercising his powers can at the most ensure the recovery of losses and passing of such orders to protect the society, which is trust of different individuals, who have initially established the society to protect established class of persons having common interest, therefore, while exercising powers in terms of Section 50, 50A, 52, 54, 55 & 59 of the Co-operative Societies Act, 1925, the Registrar can set aside the agreement, cancel the allotment, recover the amount after passing appropriate orders under the law and shall also exercise all powers of the execution of the orders, and all such powers give an impression that the same are meant to be treated as civil remedies to prevent loss to the society but it does not cover those criminal acts, which were defined in Pakistan Penal Code, 1860 and any individual, who has committed those offences, have to be dealt through inquiry/investigation of the FIA or Anti Corruption Establishment or NAB as the case may be under the relevant laws.

16. By comparing these two special laws i.e. Co-operative Societies Act, 1925 and FIA Act, 1974, I have come to the conclusion that both laws have different objective, area, field, results, affects, as well as the purposes to achieve and one does not overlap the other in their results. I am fortified with the view given in 2017 SCMR 1340 (Muhammad Khalid vs. NAB through Chief Administrator Multan, etc.), 2017 SCMR 1218 (Syed Mushahid Shah, etc. vs. FIA), 2016 PLC 107 (Koh-E-Noor Industries Pvt. Ltd. vs. Employees Old Age Benefit Institution), 2006 PCr.LJ 921 [Karachi] (Reference by Judge Special Court-II (C.N.S)), 2002 PCr.LJ 216 (Muhammad Saleem vs. The State), PLD 2012 SC 923 (Baz Muhammad Kakar vs. FOP through Ministry of Law and Justice), PLD 2012 SC 501 (Ghulam Haider vs. Murad through Legal Representatives), PLD 2016 [Peshawar] 298 (Abdul Jabbar vs. The Chairman NAB through DG NAB) &

**PLD 2018 [Islamabad] 51 (SNGPL through General Manager vs. Director (Legal) President Secretariat (Public), Aiwan-e-Sadar, Islamabad and 2 others).**

The above referred case laws give a specific insight on the following principles of interpretation whereby in case of inconsistency between the provisions of two enactment, both of which can be regarded as special in nature, the conflict has to be resolved by reference to the purpose and policies underlying the two enactments and the clear intendment conveyed by the language of the relevant provision therein as held in **(1990) 4 SCC 406 (Ashoka Marketing Limited vs. Punjab National Bank etc.)**. There is another rule of interpretation which deals with non obstante clause in which one of the act overrides the other. In such situation the clause barring the jurisdiction has to be seen with great care and caution. The exclusivity of the Co-operative Societies Act, 1925 has to be considered in the circumference of its preamble, however in order to clarify the meaning of Section 70(A) of the Co-operative Societies Act, 1925, it is necessary to reproduce the same, which is under for ready reference:

*[70.A. Bar of Jurisdiction.— (1) Notwithstanding anything provided in any other law for the time being in force, but save as expressly provided in this Act---*

- (a) no Court or other authority whatsoever shall have jurisdiction to entertain, or to adjudicate upon, any matter which the Provincial Government, the Registrar or his nominee, any arbitrator or liquidator, a society, a financing bank, a Co-operative bank or any other person is empowered by or under this Act, or the rules or by-laws framed thereunder, to dispose of or to determine;*
  - (b) the validity of anything done or an order passed by the Provincial Government, a society, a financing bank, a Co-operative bank, the Registrar or any other person referred to in clause (A), under this Act or the rules and by-laws framed thereunder, shall not be called in question in any manner whatever before or by any Court or other authority whatsoever; and*
  - (c) no Court or other authority whatsoever shall be competent to grant any injunction or pass any other order in relation to any proceedings under this Act or any rules or by-laws framed thereunder before the Provincial Government, a society, a financing bank, a Co-operative bank, the Registrar or any other person referred to in clause (A).*
- (2) The provisions of sub-section (1) shall be applicable to proceedings, appeals and revisions pending adjudication or*

*disposal before or in any Court or other authority whatsoever on the date that the Co-operative Societies (Amendment) Ordinance, 1966, comes into force, and any order passed in such proceedings, whether before or after the coming into force of the said Ordinance, in regard to matters referred to in sub-section (1), shall stand vacated and be without any force.*

17. The above provision of the Co-operative Societies Act, 1925 has only qualified to the extent of issues and powers relating to Registrar or his nominee, arbitrator or liquidator of any matter which covers under the Act and its relevant authorities i.e. Registrar, which could not be adjudicated upon by any other authority or the Court and the above referred provision start with the term ***“notwithstanding anything provided in any other law”***. The said clause is to be seen with reference to internal matters of the society, which could not be agitated before a civil court or in any other adjudicating authority for determination of the rights of members or officials or of the society as this Act provides a speedy remedy under this law in quasi judicial manner but it does not preclude the criminal prosecution as the prosecution of offences does not cover in this provision and only two types of adjudicating bodies have been referred i.e. ***Court*** and ***other authorities*** and these two terms have to be considered with reference to the provision of Sections 4, 4(A), 8, 13, 14, 15, 15(A), 16, 16(A), 17(b), 18(A), 20, 22, 22(A), 43, 44, 44(A), 44(B), 44(C), 44(D), 44(E), 45, 46, 47, 48, 48(A), 49, 50, 50(A), 52, 54, 54(A), 55, 56, 57, 58, 59, 59(A), 59(C), 59(E), & 59(F) of the Co-operative Societies Act, 1925, which comprehensively deal with the powers and functions of the Registrar in different circumstances in the affairs of the society. However, all these powers are meant to cater the protection and preservation of a society and the interest of the members, which is collective in nature, and **those persons who have common economic and social interest for achieving better standard of living.** Therefore, Section 70(A) read with Section 63 of the Co-operative Societies Act, 1925 is to be considered to the extent of the powers and functions enumerated in this law, and anything which has not been covered in these provisions stands excluded, whereas the FIA authorities under FIA Act, could not underwent those

functions to recover the rights of any member or its society in the Co-operative Societies Act, 1925 nor supersede the powers of Registrar Cooperative although the powers of inquiry under Section 43(A) of the Co-operative Societies Act, 1925 are similar to the powers available under FIA Act, 1974. The results of both the inquiries in comparison are different as the Registrar will fix the responsibility as well as liability to secure the society whereas the FIA authorities or the NAB or anti corruption establishment conclude the inquiry/investigation for the purpose of prosecution with reference to the offences referred in their schedule.

18. In the light of judgment rendered by the apex Court in 2017 SCMR 1218 (Syed Mushahid Shah vs. FIA), the interpretational principles laid down in the said case law with reference to special jurisdiction are as under:

vi. *It is also settled principle of interpretation with regards to Penal Acts, if a later statute again describe an offence created by a former one, and provides a different punishment, creates a new jurisdiction and remedy and varies the procedure, modifying the manner or changing the forum of trial or appeal, the earlier statute is impliedly repealed by later unless, of course, both of them can exist in parallel jurisdiction with different localities, subjects, or objects.*

vii. *When the words are clear and capable of proper operation, the revocation or alteration of a statute by construction is not permissible. The Legislature is normally not presumed to have intended to keep two contradictory enactments on the statute-book with the intention of repealing the one with the other, without expressing an intention to do so. Such an intention cannot be imputed to the Legislature without some strong reasons and unless it is inevitable. Before adopting the last-mentioned course, it is necessary for the Courts to exhaust all possible and reasonable constructions which offer an escape from repeal by implication.*

viii. *All other consideration being equal, if the inconsistency, in spite of applying all general principles of interpretation of statutes, cannot be resolved, a statute more beneficial in remedy or method of taking action will override the statute which is not so beneficial.*

19. Keeping in view the above principles of special laws laid down in different judgments of the Superior Courts, I am of the considered view that the inquiry of the Registrar Co-operative Societies has to be treated to achieve the recovery of rights of individual members or protection of the society and to declare a person responsible for the loss caused to the society and in limited manner gives authority

20. At last, this Court is also under sacred duty to protect the rights of individuals who have created the co-operative societies for housing for their better future and in this regard, any fraud, misrepresentation or cheating, if committed by the officials of the society, it has to be curbed in a manner as directed by the apex Court in the recent judgment reported as **2017 SCMR 1340 (Muhammad Khalid vs. NAB)**, wherein it has been held as under.

"-----عدالت عظمیٰ نے اس موضوع کی طرف توجہ دلائی کہ بیشتر رہائشی منصوبوں کے لئے بنائی گئی انجمن ہائے غریب ملازمین اور سرکاری خزانے کو لوٹ رہی ہیں جس کی وجہ سے ہزاروں مقدمات عدالتوں پر بوجھ بنے ہوئے ہیں اور یہ کہ آئین پاکستان کی رو سے یہ ریاست کی ذمہ داری ہے کہ ہر شہری کی جائیداد اور جائز وسائل کا تحفظ کرے-----بے گھر ملازمین و عوام کی جمع پونجی کو دھوکہ دے سچانے کے لئے عدالت عظمیٰ نے ہدایات جاری کیں کہ وفاق تحقیقاتی ادارہ (FIA) کے متعلقہ سینئر ڈائریکٹر/ تفتیش کار، قومی احتسابی ادارہ (NAB) کے متعلقہ سینئر ڈائریکٹر/ تفتیش کار، وفاق اور صوبائی انسداد رشوت ستانی کے متعلقہ ضلع/ علاقہ کے کلکٹرز برائے حصول اراضی یا اس کے اعلیٰ عہدیدار جو کہ درجہ

(گریڈ) ۷ سے کم نہ ہوں کی مشترکہ جماعتیں سرکاری مراسلہ (Notification) کے ذریعے قائم کی جائیں جو کہ تمام نجی/خود مختار اور سرکاری طور پر رجسٹرڈ شدہ/لائسنس یافتہ سوسائٹیوں کا سائنسی اور جدید خطوط پر یعنی فرازنگ آڈٹ/حساب کتاب تین ماہ کے اندر پورے ملک میں مکمل کر لیں اور جامع تفصیل/رپورٹ ہائے ڈائریکٹر جنرل، قومی تحقیقاتی ادارہ کو پیش کریں، جو اس رپورٹ کا ہارڈ کاپ ایک بنی سے جائزہ لے کر اپنی سفارشات کے ساتھ عدالت عظمیٰ میں پیش کرے، اور یہ کہ رہائشی انجمن ہائے کے لیے سخت ترین قوانین الگ طور پر بنائے جائیں، جس میں دھوکہ دہی یا بے قاعدگی کے ارتکاب کی گنجائش نہ رہے اور ایسے قواعد و ضوابط نافذ کئے جائیں جس میں غریب سائٹلین/ملازمین یا سرکاری خزانے کو لوٹنے سے مکمل تحفظ دیا جاسکے، اور یہ کہ جو رہائشی انجمن ہائے اور اس سے متعلقہ افراد جو اس قسم کی دھوکہ دہی میں ملوث پائے جائیں ان کے خلاف برطابق قوانین فوری طور پر سخت ترین اقدامات کئے جائیں اور عین شدہ رقم کی وصولی کے لئے فوری اقدامات اٹھائے جائیں۔"

The mandate extended to FIA is clear and as such the apex Court has not restricted the FIA authorities from inquiring into the matter, rather directed them to conclude the forensic audit and other issues in accordance with law and take appropriate measures for recovery of those assets and proceed against those delinquents.

21. For the abovementioned discussion, the instant writ petition bears no merits, therefore, the same is hereby **dismissed**.

22. Before parting with this judgment, it is important to note here that instant writ petition was filed on 24.05.2017 by the FECHS through its President, Lt. Col. Nazar Hussain, however, the Management Committee completed its tenure and an administrator was appointed to look after the affairs of the society, who has submitted separate report as to what actions have been initiated by him under his notification of appointment to protect rights of individuals of the society. Therefore, instant writ petition filed by the then President is not valid as he was not authorized to claim representation of the society, especially when he himself is accused in both the inquiries pending before the Registrar Co-operative Societies, ICT and FIA, and in my humble view, it amounts to conflict of interest and all his actions at this stage are motivated to protect the individuals, who are directly responsible to cause loss to the members, which resulted into failure of the entire society.

23. FIA is directed to proceed and conclude the pending inquiry in accordance with law, if tangible material comes on record against any delinquent officer, members or against any person under FIA Act, 1974. Similarly, the Registrar



Co-operative Societies, ICT, who is conducting the inquiry, is also directed to conclude the same and fix the responsibility independently under Co-operative Societies Act, 1925. Both the authorities shall conclude their inquiries and give opinion within period 30 of days under intimation to this Court.

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24. The applicants have filed these C.Ms under Order I Rule 10 CPC to become party in the instant writ petition. As the writ petition has finally been decided, therefore, the applicants are directed to approach the Registrar Co-operative Societies, ICT and FIA for redressal of their grievances, where the inquiries are pending. Both the C.Ms are **disposed of** accordingly.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Announced in open Court on: **19<sup>th</sup> October, 2018.**

JUDGE

**APPROVED FOR REPORTING.**

JUDGE

R.Anjam