

AAMER FAROOQ, J.----The petitioner, in the instant petition, has made the following prayers:-

- (a) Direct the respondents to follow the spirit of NADRA Ordinance, 2000 and immediately appoint new members of NADRA Authority in terms of section 3 of the said law;
- (b) Direct the NADRA Authority to decide pending departmental appeal dated 11.07.2018 of the petitioner immediately after coming into existence strictly in accordance with law.

2. The petitioner was an employee of respondent No.3 and was removed from service on 13.06.2018; he preferred appeal against the said order in 2018 which is still pending.

3. Learned counsel for the petitioner inter alia contended that despite lapse of two years, appeal of the petitioner has not been decided. It was further contended that National Database and Registration Authority, as such, is not properly constituted for the last two years inasmuch as members have not been appointed on the vacancies which are vacant since 2018.

4. Learned DAG submitted that since appointment of members of the Authority is to be made by the Federal Government, for which, reasonable period is required.

5. Learned counsel for respondent No.3 contended that even though the members are not available yet under Notification dated 28.06.2019, Chairman of the Authority is competent to decide the cases as appellate authority.

6. Arguments advanced by learned counsel for the parties have been heard and the documents, placed on record, examined with their able assistance.

7. The bare perusal of the relief sought, in the instant petition, shows that it has two segments; one is direction for appointment of members of National Database and Registration Authority (the Authority) and the second is for direction for expeditious disposal of appeal of petitioner.

8. The relevant provision, with respect to establishment and constitution of the Authority, is section 3 of the National Database and Registration Authority Ordinance, 2000 (the Ordinance). For the sake of brevity, the referred provision is reproduced below:-

"3. Establishment of the Authority.---(1) As soon as may be, but not later than thirty days after the commencement of this Ordinance, the Federal Government shall, by notification in the Official Gazette, establish an Authority to be known as the National Database and Registration Authority for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate, with power to acquire, hold and dispose of property, having perpetual succession and a common seal and shall by that name sue and be sued.

(3) The Authority shall consist of a Chairman, also to be called the Registrar General of Pakistan, and five members to be appointed by the Federal Government:

Provided that till such time the Authority is established the Chairman may exercise the powers and perform the functions of the Authority.

Provided further that the Federal Government may, from time to time, by notification in the official Gazette, increase or decrease the number of members and prescribe mode of their appointment as it may deem fit.

(4) No person shall be appointed as the Chairman or a member if he has been declared insolvent, or convicted for an offence involving moral turpitude, or declared to be disqualified from employment in, or dismissed from Government Service.

(5) The Chairman and a member shall, unless he resigns or is removed from office earlier as hereinafter provided, hold office for a term of three years and shall be

eligible for re-appointment for such shorter term not exceeding one year as the Federal Government may determine:

Provided that a Chairman or a member shall retire on attaining the age of sixty-five years,

(6) In case of vacancy occurring due to death, resignation or removal of the Chairman or a member, the Federal Government shall within a period not exceeding sixty days, appoint another qualified person to fill such vacancy.

(7) The Chairman shall be an eminent professional of known integrity and competence with substantial experience in the field of computer science, engineering, statistics, demography, law, business, management, finance, accounting, economics, civil or military administration, or the field of registration.

(8) Every member shall also be a person of known integrity and competence with sufficient experience in the field of computer sciences, engineering, statistics, demography, law, business, management, finance, accounting, economics, civil or military administration, or the field of registration:--

Provided that not more than two members, including the Chairman, at any given time may be appointed from amongst eligible serving or retired officers of the authority or the Registration Organization.

(9) No act or proceeding of the authority shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of the Authority.

(10) The principal office of the Authority shall be at Islamabad and it may set up offices at such place or places as it may deem appropriate:

Provided that all offices including the District Registration Offices, other offices, counters and any other formation of the Registration Organization as well as that of the National Database Organization along with their entire respective record, shall become and be deemed to be the offices, the District Registration Offices, other offices, counters and other formations of the Authority respectively along with such record.

(11) The Chairman or a member may, by writing under his hand, resign from his office:--

Provided that his resignation shall not take effect until accepted by the Federal Government.

(12) The Federal Government may remove the Chairman or any member from office if,--

- (a) Upon an inquiry, he is found incapable of performing the functions of his office by reason of mental or physical incapacity or has been found guilty of misconduct; or
- (b) After his appointment he is disqualified from being so appointed as provided in subsection (4).

Subsection (3) of section 3 of the Ordinance shows that the Authority consists of a Chairman and not less than five members to be appointed by the Federal Government. Under subsection (6) *ibid*, in case of vacancy occurring due to death, resignation or removal of the Chairman or a member, the Federal Government shall within a period not exceeding sixty days, appoint a qualified person to fill such vacancy. The qualification of member is laid down in subsection (8) of section 3 of the Ordinance which includes that a member should be a person of known integrity and competence with sufficient experience in the field of computer sciences, engineering, statistics, demography, law, business, management, finance, accounting, economics, civil or military administration, or the field of registration.

9. It is observed that despite non-availability of members of the Authority for the last two years, the Federal Government failed to perform its obligation regarding appointment of

members of the Authority. In this behalf, it was brought to the attention of the Court that in a petition under Article 199 of the Constitution (W.P. No.27170-2016) filed before Hon'ble Lahore High Court, direction was issued for framing Rules for mode of appointment of members of the Authority vide order dated 05.07.2017 but without any result.

10. It is incumbent upon Federal Government to perform its functions in accordance with Constitution and law, which is failed to do so in the instant matter. When vacancy, with respect to a Member, was created, it was to be filled within sixty days of the same. The good governance entails that executive perform its duties in accordance with law.

11. For the foregoing reasons, instant petition is disposed of with direction to Federal Government to appoint members of the Authority in accordance with the mandate as provided in section 3 of the Ordinance expeditiously without any further delay. Likewise, appeal of the petitioner shall be decided in accordance with law by the competent authority expeditiously.

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