

## ORDER

**SHAUKAT AZIZ SIDDIQUI, J.**---Brief facts giving rise to filing of the instant petition are that, petitioners are ex-office bearer of management committee of Pakistan Atomic Energy, Employees Co-operative Housing Society (hereinafter called as society). They held the offices of Vice President, Secretary and Finance Secretary respectively. It is the case of the petitioner as put-forth in the petition, that, petitioner Nos. 1 and 2 were contesting the election of the management committee of the society, which was scheduled to be held on 12-6-2010. Respondent No.4 being member of the society filed an application before respondent No.1 for initiating an inquiry under section 43 of the Co-operative Societies Act, 1925 (hereinafter called as an Act) against the petitioners. Mr. Imran Ali Sultan, Assistant Commissioner (Industrial Area) was appointed as an inquiry officer by the Registrar of Co-operative Societies (Deputy Commissioner) I.C.T. It is alleged that in the meanwhile, respondent No.4 made -tampering in the official record and fraudulently changed the figure of Rs:1,75,00,000/- (One crore, seventy five lac) to Rs: 100,75,00,000/- (One hundred crore and seventy five lac) and name of petitioner No.3 was also inserted in the tampered application.

2. According to petitioners reference under section 54 of the Act, *ibid*, was also pending before the Deputy Registrar of the Co-operative Societies, Islamabad. On the application filed by petitioners Nos. 1 and 2, respondent No.2, vide order dated 24-5-2010 stayed the inquiry proceedings against them till the election of the society. This order was challenged before Lahore High Court, Rawalpindi Bench, by way of filing Writ Petition No.2335/2010. The Hon'ble Lahore High Court, vide order dated 2-7-2010 directed the inquiry officer to complete the inquiry proceedings, against the petitioners Nos. 1 and 2 within a period of 60 days, from the date of passing the order. It was further directed that election of the society should be conducted soon thereafter. The court also issued direction to seal the documents, which were allegedly tampered.

3. In compliance of the order of the Hon'ble Lahore High Court, the inquiry officer submitted report No. 62/Reader/AC/(IA) dated 24-5-2011 with the following findings and recommendations:--

(i) Elections of the PAEC Employees Cooperative Housing Society should be conducted as soon as possible in order to restart the development work: Any further delay may cause the development work. Any further delay may cause the development charges, cost of the land and other amenities to raise manifold.

(ii) Special audit by independent auditors should be conducted as soon as possible.

(iii) Appropriate legal proceedings must be initiated against the complainant Mr. Fazal Hussain on the following grounds of:

(a) Filing false complaints/applications in various organizations like NAB, FIA, ICT Administration etc. and wasting precious time of public officials.

(b) Intentionally changing/amending the official record in order to cause annoyance/injury to

other party.

(c) Receiving refund of Rs:54000/- fraudulently from the Society.

4. Feeling aggrieved, respondent No.4 preferred an appeal/revision dated 26-7-2011 before respondent No.1 who passed the impugned order dated 2-11-2011, operation part of which is reproduced herein below:--

"I have heard the arguments advanced by the appellant, as well his counsel and perused the record very carefully. The appellant has levelled serious allegations against the Society Management, the matter being sensitive in nature, requires a thorough probe. Therefore, the case is remanded to the Registrar Cooperative Societies, Islamabad for constitution of an Inquiry Committee comprising two officers of ICT and to be headed by Malik Muhammad Afsar Khan, (AC)/Deputy Director (Auqaf), Islamabad. The report should be submitted within one month after a thorough inquiry into the matter giving an opportunity of hearing to the Parties concerned."

5. The learned counsel for the petitioners submits that impugned order has resulted into grave miscarriage of justice, as no opportunity of hearing been provided to the petitioner before passing the same and that respondent No.1 exercised the jurisdiction which was not vested in him. The learned counsel further submits that fresh inquiry is not warranted by law, and Appeal was not maintainable under section 64 of the Act, *ibid*.

6. I have heard the learned counsel for the petitioner and examined the record, annexed with the petition. It is the case of the petitioners themselves that figure of amount of Rs.1,75,00,000/- was altered to Rs.100,75,00,000/-. Simple calculation provides a figure of Rs:99,00,00000/- (990:00 Million) which allegedly embezzled. The question whether this manipulation took place on the behest of petitioners, being custodian of the record of the society or respondent No.4, has to be looked into by the inquiry committee. This court will refrain to give any observation in this regard as it may cause prejudice to either of the parties.

7. The respondent No.1 is vested with vast powers to look into the legality or propriety of any decision or order passed and as to the regularity of the proceedings conducted by any subordinate officer, as envisaged in section 64-A of the Act *ibid*, and for convenience same is reproduced herein below:--

**"Power of Provincial Government and the Registrar to call for proceedings of Subordinate Officers and to pass orders thereon.--**The Provincial Government and the Registrar may call for an examine the record of any inquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case, it shall appear to the Provincial Government or the Registrar that any decision or order or proceedings so-called for should be modified, annulled or reversed the Provincial Government or the Registrar, as the case may be may pass such order thereon, as to it or him may seem fit."

8. Plain reading of the above provision, clearly suggest that respondent No.1 had the authority under the law to examine the correctness and legality of the proceedings, conducted by inquiry officer who submitted report dated 24-5-2011. The difference between sections 64 and 64-A of the Act *ibid*, is that appeal can be filed by any party aggrieved of the order,

whereas, under section 64-A there is no such requirement, which establishes this fact that even at his own initiative, respondent No.1 was empowered by the statute, itself to look into the matter and take remedial steps. It was essential, when section 64 of the Act, *ibid*, did not provide Appeal against any order passed and proceeding carried out under Section 43 of the Act, *ibid*.

9. This court is of the view that no prejudice has been caused to the petitioner as the respondent No.1 has just held that "the matter being sensitive in nature requires a thorough probe" (emphasis provided). Moreover, Respondent No.1 also directed that opportunity of hearing be provided to the parties concerned. This court also feels that matter is delicate and accusation is heinous in nature, for which proper inquiry has to be conducted. The impugned order has been passed in the larger interest of the members of the society of very sensitive institution; therefore, it cannot be set aside on the hyper technical grounds. It is observed with concern, that most of the societies, established for betterment and welfare of its members are found napping in doing so. Members of the management committees are involved in activities synonymous to property dealers and real estate agents. With the exception of few most of co-operative societies keep their members in an arena of uncertainty for decades and persons on the helm of affairs keep on enjoying out of contributions made by the members, through their hard earned money and life time savings. The High Court cannot harbor those person(s) who for their own benefit, endanger the interest and rights of others. For the advancement of personal vendetta they take undue advantage and demonstrate polluted mannerism. Situation gets aggravated when members of the Management Committee, held in tug of war against each other, with allegations of corruption and counter allegation of colourable exercise of authority.

10. Admittedly, in the instant matter scam of (Rs:990:00 Million) speaks volume of cryptic approach, dubious conduct, enigmatic dealings and irresponsible behavior of the management committee, resulting into breach of trust and unprecedented financial loss to the member of the society.

In this view of the matter, this writ petition is dismissed in limine.

Petition dismissed.