

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

Writ Petition No. 4496 of 2019

Siraj Ahmed, Advocate
Vs
Vice Chairman, IBC, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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10-01-2020. Mr. Siraj Ahmed, Advocate (petitioner in person).

The petitioner who is an enrolled Advocate has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking the following prayer:

“Under these circumstances, in the light of orders of Supreme Court dated 10.07.2019, 05.11.2019, 17.12.2019 and High Court dated 12.06.2018, all respondents may be directed to issue the fitness certificate with the restoration of the membership, in addition to imposition of costs under cost of Litigation Act 2017, without prejudice to other remedies available to the petitioner.

Any other relief suitable in the eyes of honorable apex Court may also be granted graciously."

2. The facts, in brief, are that a complaint was received by the Islamabad Bar Council against the petitioner and pursuant thereto his license was suspended. The petitioner filed W.P No. 2030/2018, which was disposed of vide order dated 12.06.2018. The petitioner appears to have assailed the said order and the august Supreme Court vide order, dated 10.07.2019 had, inter alia, directed the Tribunal of the Islamabad Bar Council to decide the petitioner's case at an early date. The Tribunal vide order, dated 26.09.2019, dismissed the complaint and consequently the petitioner's license was restored. Criminal Original Petition no. 114/2019 in CM Appeal No. 73/2019 was disposed of by the august Supreme Court vide order, dated 05.11.2019 because the petitioner's grievance had been redressed.

3. The petitioner has appeared in person and has been heard at length.

4. Perusal of the prayer shows that the petitioner is in fact seeking a direction to the Islamabad Bar Council regarding

issuance of fitness certificate in compliance with the orders passed by the august Supreme Court and order, dated 12.06.2018 by this Court. W.P No. 2030/2018, which was disposed of vide order, dated 12.06.2018 was not regarding issuance of a fitness certificate nor the august Supreme Court had given any direction with regard thereto. The issuance of fitness certificate is a distinct matter and is to be dealt with by the Islamabad Bar Council. The petitioner is an enrolled Advocate of the High Courts and the Islamabad Bar Council is expected to process his application and other applications within a reasonable time and in accordance with law.

5. This Court has already held that the Bar Councils are not amenable to the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 because they are neither administratively nor financially controlled by the Federal Government. The Bar Councils, therefore, do not qualify the "function test" prescribed by the august Supreme Court in order to determine whether or not an entity is a "person" for the purposes of exercising constitutional

jurisdiction under Article 199. Reference is made to the cases titled "*Pakistan International Airlines v. Tanweer-ur-Rehman*" [PLD 2010 SC 676] and "*Pakistan Defence Officers Housing Authority and others v. Lt. Col. Syed Jawaid Ahmed and others*" [2013 SCMR 1707].

6. For the above reasons, this petition is not maintainable and is, therefore, accordingly dismissed.

(CHIEF JUSTICE)

Saeed.