

SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

MR. JUSTICE AMIN-UD-DIN KHAN

MR. JUSTICE JAMAL KHAN MANDOKHAIL

Civil Petition No. 1840 of 2016

(Against the judgment dated 22.03.2021 passed by the Islamabad High Court, Islamabad in Civil Revision No. 349 of 2015)

World Health Organization, (WHO), Islamabad ...Petitioner (s)

Versus

Muhammad Ansar Iqbal

...Respondent(s)

For the Petitioner(s): Ch. Muhammad Ashraf Gujjar, ASC

On Court Notice: Mr. Sajid Ilyas Bhatti, Addl. AG
Asad Burki, Legal Advisor MOFA
Syed Faraz Raza, Legal Advisor

For the Respondent(s): N.R.

Date of Hearing: 15.12.2021

ORDER

AMIN-UD-DIN KHAN, J.- We have heard learned counsel for the petitioner as well as Mr. Sajid Ilyas Bhatti, Additional Attorney General present before us. Learned counsel for the petitioner states that actually the matter has been settled out of the Court and the plaintiff/respondent has withdrawn his suit on 10.12.2016. The only question for which this Court has been approached is that the learned High Court has wrongly applied the State Immunity Ordinance No.VI of 1981 and section 4 thereof. The case of the petitioner before the trial court as well as High Court and this Court is that the civil court was having no jurisdiction to entertain and try the suit against the petitioner,

under the contract between the parties in the light of Clause 16 of General Conditions of Contract which contains amicable settlement between the parties in accordance with the practice and through conciliation in accordance with the conciliation rules of the United Nations Commission on International Trade Law ("UNCITRAL") and through the mode of arbitration in accordance with the UNCITRAL Arbitration Rules, therefore, the civil court was having no jurisdiction.

2. We have considered the arguments advanced by the learned counsel for the parties. The stance of the petitioner holds ground that the law has incorrectly been applied while dismissing the petition filed before the High Court is correct in the facts and circumstances of this case. The determination of scope, limits and extent of diplomatic and state immunity clauses of various statutes need further deliberations. However, since the matter between the parties stand resolved out of court, it would become an academic exercise to give any finding on the issue of state/diplomatic immunity. In this view of the matter we convert this petition into appeal and allow the same. We set aside the judgment passed by the High Court and hold further that the said judgement shall have no precedential value in term of Article 201 of the Constitution.

Islamabad, the

15th of December, 2021

(Syed Farhan Ali)

"Approved For Reporting"