

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Mushir Alam  
Mr. Justice Sajjad Ali Shah  
Mr. Justice Qazi Muhammad Amin Ahmed

**Civil Review Petitions No.310, 311 AND 217 OF 2018**  
**ALONGWITH CMA No.7552/2020.**

(Against the judgment dated 28.3.2018 passed by this Court in  
CAs No.970 AND 971 of 2013 – CMA for permission to argue the  
case)

**Shaheen Airport Services**  
**MCB Bank Ltd.**

**Petitioners** (In 310-311/18)  
**Petitioner** (In 217/18)

**Versus**

**National Industrial Relations Commission thr.**  
**its Chairman, etc.**

**Respondents** (In 310-311/18)

**Tariq Zameer Siddiqui, etc.**

**Respondents** (In 217/18)

For the Petitioner (s) : Mr. Khalid Anwar, Sr. ASC (via video link)  
Mr. Rashid Anwar, ASC (In 310-311/18)

For the Petitioner (s) : Mr. Shahid Anwar Bajwa, ASC (In 217/18)

For the Respondent(s) : Mr. Sohail Mahmood, Addl. AGP  
Mr. Ayyaz Shaukat, DAG  
Mr. Ibrar Saleem, Dy. Reg. NIRC

For Govt. of Punjab : Ch. Faisal Farid, Addl. AG Punjab  
Rab Nawaz Zahid Director IRI  
Fazal Hussain, Director Labour

Date of Hearing : 07.12.2020

**Judgment**

**Sajjad Ali Shah, J. (CMA 7552/2020)** In view of the fact that Mr. Khalid Anwar, Sr. ASC for the review petitioner was provided an opportunity to address the Court through video-link from his Office, therefore, this application seeking permission to argue the case through an alternate counsel has become infructuous and is disposed of accordingly.

**CRPs No. 310 & 311 of 2018:** The petitioner-Shaheen Airport Service seeks review of para 22 of our judgment dated 28.3.2018 which reads as follows:-

*“22. There is yet another question involved in the matter, namely, the appellant-Shaheen Airport Services is a charitable organization or not. It is the case of the appellant that charitable organizations are excluded from the operation of both the federal and provincial law, therefore, regardless of the question whether the appellant is a trans-*

*provincial establishment for purposes of the federal law or whether it comes within the ambit of the provincial law, the appellant falls outside the purview of both the IRA, 2012 and the SIRA, 2013, resultantly, no trade union can be registered within the appellant. In this regard it is to be noted that the learned High Court has considered this question in detail and has held that the federal law was applicable to Shaheen Airport Services as the same was operative in more than one province and that Shaheen Airport Services did not qualify as a charitable organization in view of the activities that were entailed in the operation of its business. We are in agreement with the findings of the learned High Court.”*

2. Mr. Khalid Anwar learned Sr. ASC for the review-petitioner contends that the applicability of the Industrial Relations Act, 2012 ('IRA 2012') and the Sindh Industrial Relations Act, 2013 ('SIRA 2013') to the petitioner was assumed on the ground that the High Court has considered this question in detail and, therefore, in the judgment under review it was maintained that the Federal law was applicable to the petitioner Shaheen Airport Services as the petitioner was operative in more than one province and that it did not qualify as charitable organization in view of the activities that were entailed in the operation of its business. Per counsel such findings were *per incuriam* as IRA 2012 as well as SIRA 2013 expressly exclude its application to all business, trade, manufacture, calling, service, including fishing, mining, agriculture, extraction, exploration, processing, print and electronic media, employment or occupation of producing goods or services for sale. In order to support his contention, counsel has referred to the provisions of Section 2(xvii) of the IRA 2012 and 2(xvi) of SIRA 2013. It was next contended that the findings of the High Court in para 15 of its judgment that charity or no charity, it is the activity of the establishment that determines whether it falls within the ambit of industry or not and the answer to this question posed lies in the definition of word industry as given in Section 2(xiv) of the Industrial Relations Ordinance, 1969, are

erroneous and are based on the assumption that after the repeal of IRO 2008 through sunset clause on 30.4.2010 and before the promulgation of SIRA 2013, the Industrial Relations Ordinance 1969 stood revive. Again such findings are *per incuriam* and against the law laid down by this Court in the case of *Air League of PIAC Employees through President vs. Federation of Pakistan M/O Labour and Manpower Division Islamabad and others* (2011 SCMR 1254) wherein it was clearly held that IRA 2012 would be applicable retrospectively with effect from 1.5.2010 when the IRO 2008 ceased to exist. It was, therefore, contended that dislodging the status of review petitioner as charitable institution by examining its activities was not permissible as envisaged in Sections 2(xvii) of IRA 2012 and 2(xvi) of SIRA 2013 and, therefore, the findings of the High Court to that extent were *per incuriam* and consequently the adoption of this Court of such findings in para 22 calls for review.

3. On the other hand, it was contended that the very status of the review petitioner as a charitable institution was questioned and there are concurrent findings which assert that the petitioner is not a charitable institution. It was contended that if the character of the review petitioner as charitable institution is assumed, then there is no denial that the applicability of industrial relations laws would be barred as provided in IRA 2012 and SIRA 2013 as pleaded.

4. It is evident from the record that the claim of the review petitioner as being a charitable institution through out was declined and therefore, was held to be amenable to relevant labour laws and ultimately the review petitioner filed the referred petition *inter alia*, seeking a declaration regarding its status as a charitable institution and the High Court after hearing the parties, again refused to give such declaration by holding:

“... though Shaheen Foundation may be, and it appears is a charitable institution but that cannot be said about the

*petitioner’s establishment i.e. SAPS. SAPS only exists for making profit. The fact that it yields its profit to Shaheen Foundation which in turn uses it for charitable purposes could not make SAPS a charitable organization. Doing so would tantamount to making, in the words of Justice Krishna Iyer “Good Samaritans” into “clever industrialists”.*

And ultimately this Court in para 22 upheld such finding that the review petitioner is not a charitable institution. Once such finding has come to record, the review petitioner cannot claim the benefit of Section 2(xvii) of IRA 2012 or of 2(xvi) of SIRA 2013 in order to claim immunity. These review petitions consequently fail and are, therefore, dismissed.

**CRP No. 217 of 2018:** Due to paucity of time, hearing of this review petition is adjourned.

Judge

Judge

Islamabad, the  
7<sup>th</sup> December, 2020  
*A. Rehman*  
Not Approved for Reporting.

Judge