ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 301/2022

Ali Faraz Khan Saifi
Vs.
Federation of Pakistan, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	28.01.2022	Mr. Muhammad Anwar Mughal, Advocate:

Through the instant writ petition, petitioner has prayed for a direction to the respondents to act in accordance with the law and the inquiry, pending against him, be entrusted to some other officer for *denovo inquiry* and he be also reinstated in service.

2. The learned counsel argued that the petitioner was appointed in the year 2012 as Assistant Director, Forensic Expert and has been performing duties since then with zeal and zest; that one Mst. ArifaNaz has filed frivolous applications for conducting inquiry against the petitioner on the allegation of retrieving *password* of mobile phone of one Raja Ubaid Ur Rehman in order to fetch data.

3. Learned counsel further contendedthat the petitioner had been placed under suspension on 18.02.2020 for a period of three months but despite lapse of almost 2 years he is still under suspension without any inquiry or order of reinstatement. He further contended that the petitioner was served with charge sheet on 29.06.2020 after lapse of four months and ten days. The learned counsel further contended that the petitioner is being called time and again to face the inquiry but the Inquiry Officer has not yet concluded the inquiry proceedings, and that the

Inquiry Officer has biased attitude towards the petitioner, hence this petition.

4. Arguments heard, record perused.

5. Perusal of the record reveals that the petitioner was a contractual employee in the respondent-departmentand his contract was being extended from 2012 onwards. The record is silent as to whether his contract was extended further after the initiation of inquiry in the year 2020. The learned counsel was unable to answer the query put forth by the Court in this respect.

6. The services of the petitioner were governed by a contract which cannot be got enforced through a constitutional petition under Article 199 of the Constitution being a vested right. Reliance is placed upon case law reported as **2020 SCMR 1625, 2013 SCMR 304, 2005 SMCR 642 and 1997 PLC CS 284.**

7. Record further reveals that the petitioner has been served with show-cause notice and subsequently with a proper charge-sheet on 29.06.2020.

8. The petitioner has filed preliminary reply to charge sheet and the fate of the same has yet to be decided by the competent authority. The issuance of writ as prayed for would amount to curb the inquiry proceedings pending before the respondents at its inception and would render the whole exercise futile.

9. Show cause notice or charge-sheet is merely an expression made by the concerned department against its employee that contains particulars of alleged misconduct. It retains status of interlocutory orders, to be merged in final orders. Interference in the interlocutory orders such as charge-sheet/show cause notice and putting an end to them at their inception, unless same are

shown to be without jurisdiction, would amount to stifling of disciplinary proceedings. Hence, petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 is not maintainable against show cause notice or *charge sheet. Reliance is placed upon case of "Abdul Wahab Khan vs Government of the Punjab and three others*" (**PLD 1989 SC 508)** and "*Muhammad Javed vs Executive District Officer (Education) Sialkot and two others*" (**PLJ 2002 Lahore 1393**).

10. In view of above, no further proceedings in the instant writ petition are called for. It is accordingly **dismissed in limine.**

(ARBAB MUHAMMAD TAHIR)
JUDGE

Kamran