ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

I.C.A. No.396 of 2018

Abdul Haseeb Khan

Versus

Privatization Commission, through its Chairman, Islamabad and 03 others

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	25.09.2018	**Mr. Mohammad Amin Farooqi, Advocate for the appellant.**

AAMER FAROOQ, J. - This appeal is directed against order dated 20.08.2018, passed by Judge-in-Chambers, whereby, petition under Article 199 of the Constitution, was dismissed.

2. The facts, leading to filing of the instant appeal, are that the appellant is an employee of Privatization Commission and challenged the show cause notice issued to him by respondent No.2 for initiation of disciplinary proceedings against him by way of a petition under Article 199 of the Constitution. The referred petition was dismissed vide the impugned order.

3. Learned counsel for the appellant, *inter-alia*, contended that the show cause notice was not issued by the competent authority inasmuch as under the law the show cause notice has to be issued by the Chairman, Privatization Commission. It was further contended that the post of Chairman, Privatization Commission is vacant since long. It was

further submitted that since the show cause notice was without authority, hence, liable to be struck down. In response to the query of the Court, learned counsel contended that though the service regulations of Privatization Commission are non-statutory, however, the instant petition is maintainable in light of the law laid down by the Hon'ble Supreme Court of Pakistan in case reported as *"2013 SCMR 1707"*.

4. The appellant is aggrieved of issuance of show cause notice issued by respondent No.2. It is trite law that the show cause notice is not an order but is initiation of disciplinary proceedings. Moreover, the appellant can raise all legal and factual objections to the issuance of the show cause notice including the one regarding the competency of respondent No.2 to issue the notice.

5. Admittedly, the Privatization Commission Employees (Appointment and Terms and Conditions of Service) Regulations, 2002 are non-statutory, however, under the facts and circumstances the dictum laid down by the Hon'ble Supreme Court of Pakistan in case reported as *"2013 SCMR 1707"* supra is not attracted inasmuch as the appellant has been provided ample opportunities to defend his case and for the said purpose the show cause notice

has been issued, hence, there is no illegality as such.

6. In view of the above, the instant petition is without merit and is accordingly dismissed.

(AAMER FAROOQ)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE

M. Zaheer Janjua

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