

**ORDER SHEET**

**IN THE LAHORE HIGH COURT, LAHORE  
JUDICIAL DEPARTMENT**

W.P. No.50962 of 2019

Tariq Mehmood

Versus

Punjab Overseas Pakistani  
Commission and 2 others

Sr. No. of Order/ Proceeding	Date of Order/ Proceeding	Order with Signature of Judge, and that of parties or counsel, where necessary
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18.09.2019

Mr. Muhammad Habib Chaudhry, Advocate for the  
Petitioner.  
Barrister Umair Khan Niazi, Additional Advocate-  
General on Court's call.

The Petitioner through this writ of mandamus under Article 199(1)(a)(i) of the Constitution of the Islamic Republic of Pakistan, 1973 (the "Constitution") has sought direction to the Respondent No.1/Vice Chairperson, Punjab Overseas Pakistani Commission, Lahore to redress his grievance.

2. Learned counsel for the Petitioner states that the Petitioner is an Overseas Pakistani based in United Arab Emirate (UAE) and invested rupees 30 million in the real estate business and purchased the land in DHA. Further states that the Respondents No.2 and 3 handed over a fictitious sale deed to the Petitioner having no specific Khasra/Plot numbers,

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whereupon he approached them to return the amount or to handover the original allotment letter but they refused to do the same. Therefore, he filed online complaint vide Diary No.16478, dated 07.12.2018 to the Respondent No.1. Learned counsel adds that the Respondents No.2 and 3 promised before the Respondent No.1 to pay the amount but till today they did not pay even a single penny to him. The Petitioner time and again approached the Respondent No.1 for redressal of his grievance but in vain. Further contended that the aforesaid investment was made through his livelihood from UAE but due to the fraud committed by the Respondents No.2 and 3 he suffered irreparable loss, which violates his fundamental rights under Articles 23 and 24 of the Constitution. Learned counsel argued that the Respondent No.1/Vice Chairperson Punjab Overseas Pakistani Commission, Lahore or its Commissioner, appointed under Section 3 of the Punjab Overseas Pakistanis Commission Act, 2014 (the "Act") which functions under Section 4 of the Act, despite filing of complaint since 07.12.2018, did not take any action against the Respondents No.2 and 3. Lastly states that the the Petitioner, who is citizen of Pakistan, has been treated in a discriminatory manner.

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3. Learned Law Officer objected qua the maintainability of this writ Petition on the ground that the issue/dispute is between the private parties. However he states that the Commissioner of Punjab Overseas Pakistani Commission has the power to transmit the complaint received from an Overseas Pakistani to a Government Agency, who shall, within a period not exceeding thirty days, send its response to the Commissioner; therefore, it would be more appropriate that direction be issued to the Commissioner to redress the grievance of the Petitioner.

4. From the perusal of record it reveals that the Petitioner filed complaint vide Diary No.16478, dated 07.12.2018 to the Respondent No.1 but till today no action has been taken on the said complaint. If the Petitioner is an overseas Pakistani as defined under Section 2(i) of the Act then being the citizen of Pakistan he has inalienable rights defined under Articles 23 and 24 of the Constitution i.e. right to acquire, hold and dispose of the property and its protection. However the Article 4 of the Constitution makes it very clear that it is the inalienable right of every citizen, **WHEREVER HE MAY BE, AND OF EVERY OTHER PERSON FOR THE TIME**

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**BEING WITHIN PAKISTAN**, shall enjoy the protection of law and to be treated in accordance with law (under the Act) and no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law. This Article clearly protects the citizens of Pakistan defined under Article 260 of the Constitution whether inside or outside Pakistan (wherever they may be). Further the Article 5 (2) of the Constitution states that Obedience to the **Constitution** and law is the inviolable obligation of every citizen **WHEREVER HE MAY BE AND OF EVERY OTHER PERSON FOR THE TIME BEING WITHIN PAKISTAN**. The Honourable Full Bench of the Supreme Court of Pakistan in the judgment cited as “Watan Party and another v. Federation of Pakistan, and others” (**PLD 2011 SC 997**) has held that “*Article 4 thereof remained fully operative, which laid down that to enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan and in particular no action detrimental to the life, liberty, body, reputation or property of any person would be taken except in accordance with law.*”

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5. The Petitioner through this writ of mandamus under Article 199(1)(a)(i) of the Constitution has only sought direction against the Respondent No.1 to do he is required by law to do. However, Section 7 of the Act, empowers the Commissioner to transmit the complaint to a Government Agency, which reads as follows:

**7. Functions of the Commissioner.**— (1) *The Commissioner shall:*

*(a) transmit a complaint received from an Overseas Pakistani to a Government Agency for redressal;*

*(b) make recommendations for policy changes, improvements in the system to the Government or Federal Government on the basis of feedback received from an Advisory Council or the overseas Pakistanis;*

*(c) be authorized to refer any complaint of an Overseas Pakistani to the Ombudsman for further necessary action in accordance with law;*

*(d) recommend disciplinary action against public servants who do not send reply to the Commissioner within thirty days of the receipt of reference from the Commission;*

*(e) recommend initiation of anti-corruption proceedings against a*

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*public servant where, on the basis of preliminary findings, a prima facie case for criminal action under the relevant law is made out in relation to protection of rights of an Overseas Pakistani;*

*(f) refer the proposals of Overseas Pakistanis relating to investment to the Punjab Board of Investment and Trade and ensure their early processing;*

*(g) prepare an annual report about the performance of the Commissioner for consideration and appropriate action by the Commission;*

*(h) hold consultative conventions or workshops involving Overseas Pakistanis;*

*(i) deal with references received from an Advisory Council on priority basis; and*

*(j) perform any other function ancillary to any of the above functions or as may be prescribed.*

*(2) If the Commissioner has referred any complaint under subsection (1) to a Government Agency, the Government Agency shall, within a period not exceeding thirty days, send its response to the Commissioner.*

6. In view of above by relying on the judgment cited as "Shahid Idrees v. Government of the Punjab

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*and others*” (PLD 2018 Lahore 284), if the Petitioner is an overseas Pakistani as defined under Section 2(i) of the Act, the Respondent No.1 is directed to refer the matter to the Commissioner Punjab Overseas Pakistani Commission under section 6 of the Act, who shall enquire/examine the complaint and the record in detail. Then after hearing both the Parties, if the case is made out against the Respondents No.2 and 3, the same shall be then referred to the concerned Government Agency, as per Law/Act, and redress the grievance of the Petitioner within a period of one (1) month because Section 7(2) of the Act, states that “*if the Commissioner has referred any complaint under subsection (1) to a Government Agency, the Government Agency shall, within a period not exceeding thirty days, send its response to the Commissioner.*” Compliance report be transmitted to the Deputy Registrar (Judicial) of this Court.

7. **Disposed of** accordingly.

Copy *dasti* on payment of usual charges.

**(JAWAD HASSAN)  
JUDGE**