

matter of course, without assigning or establishing '*good cause*'. Admittedly, the litigants cannot be made to suffer due to fault of Court or its stati but such attribution cannot be accepted on the basis of unfounded and groundless or unjustifiable statements and which even otherwise remain unsupported by affidavit of the relevant person. A similar plea, of misplacing list of witnesses by Court-staff, when remained unconfirmed by anything from record, has already been rejected by this Court in case titled "*Muhammad Iqbal v. District Judge, Vehari and others*" (2020 MLD 1760).

11. The contention as to misplacing the list of witnesses by *ahalmad* of the Court has no legs to stand on, therefore, I agree with the argument of Mian Khalid Habib Elahi learned counsel for the respondents that instead of showing '*good cause*' for the omission, a fake and false plea has been taken by the revision-petitioner. The revision-petitioner has miserably failed to support his stance in the *application* or to show availability of '*good cause*' from the record and circumstances of the case. B

12. For what has been discussed above, this civil revision having no merits is dismissed. No order as to costs.

MH/M-121/L

Revision dismissed.



PLD 2024 Lahore 54

Before Jawad Hassan, J

RIZWAN ALI SAYAL---Petitioner

versus

FEDERATION OF PAKISTAN

and others---Respondents

Writ Petition No. 1938 of 2023, heard on 19th September, 2023.

(a) Words and phrases---

----*Aetiology*---*Connotation*---*Aetiology* means *investigation or attribution of case or reason for something often expressed in terms of historical or mythical explanation.* [p. 58] A

(b) Public functionaries---

----*Appointment*---*Fintess to hold public office*---*First Information Report, registration of*---*Acquittal on basis of compromise*---*Mere*

registration of FIR against any person cannot be used as a definitive test to label him as having a bad character---All acquittals including acquittal on compromise are honorable for the reason that prosecution does not succeed to prove its case against accused on the strength of evidence of unimpeachable character---There can be no acquittals, which may be said to be dishonorable---Law has not drawn any distinction between any types of acquittals. [p. 62] B

Jawad Ahmad Mir v. Prof. Dr. Imtiaz Ali Khan, Vice-Chancellor, University of Swabi, District Swabi, Khyber Pakhtunkhwa and others 2023 SCMR 162; Mumtaz Ali Shah v. Chairman, Pakistan Telecommunication Company Ltd., H.Q., Islamabad and 6 others PLD 2002 SC 1060 and (Suo Motu Case No. 03 of 2017) PLD 2018 SC 703 rel.

(c) Income Tax Ordinance (XLIX of 2001)---

—S. 130 (3)—*Constitution of Pakistan, Art. 199—Constitutional petition—Quo warranto—Appellate Tribunal Inland Revenue- Judicial Member, appointment of—Pre-conditions—Involvement in criminal case—Effect—Petitioner assailed appointment of respondent as Member Judicial in Appellate Tribunal Inland Revenue on the ground that an FIR was registered against him—Validity—No restrictions or conditions were provided under S. 130 (3) of Income Tax Ordinance, 2001 relating to character verification during probationary period of respondent—Mere involvement of a candidate in any criminal case/FIR was not sufficient to bring any clog for appointment of respondent as a Judicial Member of Appellate Tribunal Inland Revenue—Respondent was never adjudged as guilty of the charges, rather complainant of that case had entered into a compromise with him and he was acquitted on the basis thereof—No other occasion, besides registration of one FIR pertaining to any criminal liability of respondent was brought on record by petitioner—Respondent was appointed as Member Judicial Appellate Tribunal Inland Revenue by Federal Government after he qualified the Federal Public Service Commission Exam.—Petitioner was appointed under S. 130(3) of Income Tax Ordinance, 2001 read with Appointment of Income Tax Appellate Tribunal Member's Rules, 1998—Office of Member Judicial, Appellate Tribunal Inland Revenue by all intents and purpose is a public office which office is created by the State and the statute, and duties attached to the office are of a public nature—Petitioner neither challenged qualifications of respondent, as mentioned in S. 130 of Income Tax Ordinance, 2001 nor his experience—Respondent was holding public office strictly as per criteria stipulated in S. 130(3) of Income Tax Ordinance, 2001—Such requirement was duly considered by Federal Government at the time of appointment of respondent through notification of his appointment*

followed by memorandum which was sent to him clearly mentioning terms and conditions mentioned therein---High Court declined to interfere in the appointment of respondent---Constitutional petition was dismissed in circumstances. [pp. 64, 69, 70] C, F & G

Messrs Service Global Industries Limited through Usman Liaqat v. Federation of Pakistan and others PLD 2023 Lahore 471 = 2023 PTD 1120; President National Bank of Pakistan and others v. Waqas Ahmed Khan 2023 SCMR 766; Saqib Ali v. Government of Punjab and others 2023 PLC (C.S.) 310; Mirza Shahzeb v. City Police Officer and others 2023 PLC (C.S.) 749; Dr. Muhammad Islam v. Government of NWFP and others 1998 SCMR 1993; Malik Muhammad Ejaz Channar v. The State PLD 2022 Lah. 427; Naimat Ullah v. The State 2021 PCr.LJ 1339; Mst. Kulsoom v. Sessions Judge 2018 MLD 1484; Muhammad Qasim v. Muhammad Iqbal 2017 YLR 752; Muhammad Zafar v. Rustam Ali 2017 SCMR 1639; Raja Muhammad Safdar v. District Returning Officer, Rawalpindi 2006 CLC 87; Ismail Ijaz v. The State 2023 PCr.LJ 114; Nadeem Ahmad v. Saif-ur-Rehman 2021 MLD 354 and Muhammad Umais v. Rawalpindi Cantonment Board and others PLD 2022 Lah. 148 ref.

Nisar Khan Khattak v. Haji Adam, Director General (Admin), PEMRA Headquarter, Mauve Area, Islamabad and another 2021 PLC (C.S.) 140; Attaullah Khan v. Ali Azam Afridi and others 2023 PLC (C.S.) 182; Mirza Abdul Rehman v. Federation of Pakistan and others 2017 PLC (C.S.) 1327; Member (S&R)/Chief Settlement Commissioner, Board of Revenue, Punjab, Lahore and another v. Syed Ashfaque Ali and others PLD 2003 SC 132; Aftab Iqbal Khan Khichi and another v. Messrs United Distributors Pakistan Ltd. Karachi 1999 SCMR 1326; Lahore Stock Exchange v. Lahore Appellate Bench S&EC 2006 CLD 988; M.U.A. Khan v. Rana M. Sultan and another PLD 1974 SC 228; Akbar Khan v. Said Gul PLD 2020 Pesh. 10; Dr. Farzana Bari v. Ministry of Law, Justice And Human Rights PLD 2018 Isl. 127 and Muhammad Shahid Akram v. Government of the Punjab through Chief Secretary and 3 others 2016 PLC (C.S.) 1335 rel.

(d) Constitution of Pakistan---

----Art. 199---Writ of "quo warranto", issuance of---Principle---Writ of quo warranto should only be issued in exceptional cases and relief should not be allowed in a casual manner, especially when candidate's qualifications were thoroughly examined during his appointment. [p. 65] D

Abrar Hassan v. Government of Pakistan and Respondents PLD 1976 SC 315 and Asif Hassan and others v. Sabir Hussain and others 2019 SCMR 1720 rel.

(e) Words and phrases---**----Public office---Defination. [p. 69] E**

Masud-ul-Hassan v. Khadim Hussain PLD 1963 SC 203; M.A.U.Khan v. M. Sultan PLD 1974 SC 228; Black's Law Dictionary 9th Edition; Pramanatha Aliyar's The Advanced Law Lexicon, 4th Edition; Ferris' Extraordinary Legal Remedies 72 CWN 64, Vol. 72; V.C. Shukla v. State (1980) Supp SCC 249 and Salahuddin v. Frontier Sugar Mills and Distillery Ltd. PLD 1975 SC 244 rel.

Tanveer Iqbal, Advocate Supreme Court and Barrister Usama Tanveer Iqbal for Petitioner with Rizwan Ali Sayal, Petitioner.

Malik Muhammad Siddique Awan, Additional Attorney General along with Arshad Mahmood Malik, Assistant Attorney General, Barrister Asfandyar Khan Tareen with Arslan Saleem Chaudhry for Respondent No.5.

Abid Aziz Rajori and Jalil Akhtar Abbasi, Assistant Advocates General and Rashid Mehmood, Research Officer, Lahore High Court, Rawalpindi Bench, Rawalpindi for Respondents.

Date of hearing: 19th September, 2023.

"heterodoxy, or, as some might say, heresy, is not the more attractive because it is dignified by the name of reform. Nor will I easily be led by an undiscerning zeal for some abstract kind of justice to ignore our first duty, which is to administer justice according to law, the law which is established for us by Act of Parliament or the binding authority of precedent. The law is developed by the application of old principles to new circumstances. Therein lies its genius".¹¹

Lord Denning in Midland Silicones Ltd v Scrutons Ltd. [1962] AC 446, 467-468

JUDGMENT

JAWAD HASSAN, J.--This petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 (the "Constitution") assails the appointment of the Respondent No.5 (Muhammad Akram) as Member Judicial, Appellate Tribunal Inland Revenue ("ATIR"), Islamabad through Notification dated 26.04.2019 (the "impugned Notification") alleging that the said Respondent is holding the above post without lawful authority and thus is not fit to hold the public office,

¹¹

"Should the Law be Certain?, The Oxford Shreival lecture given in the University Church of St Mary The Virgin, Oxford on 11th October, 2011 delivered by Lord Mance, Judge UK Supreme Court".

hence seeking a writ of *quo warranto* under Article 199(1)(b)(ii) of the "Constitution" by filing it on 01.06.2023 after lapse of about four (04) years.

I. OVERTURE OF THE CASE

2. The Court will examine the words used in Article 199(1)(b)(ii) of the "Constitution" for determination of the maintainability of writ of *quo warranto* with the focus on laches and the meaning of the word 'public office' in light of recent doctrine of textualism developed by this Court in "Ms Service Global Industries Limited through Usman Llaqat v. Federation of Pakistan and others" (PLD 2023 Lahore 471 = 2023 PTD 1120), whereby the Court has held that Doctrine of Textualism envisages a method of statutory interpretation asserting that a statute should be interpreted according to its plain meaning and not according to the intent of the legislature, the statutory purpose, or the legislative history. This judgment will first examine the (i) aetiology of filing numerous *quo warranto* petitions before High Court including Principal Seat and its allied Benches i.e. Lahore High Court, Rawalpindi Bench, Lahore High Court, Multan Bench and Lahore High Court, Bahawalpur Bench. The word aetiology means the investigation or attribution of the case or reason for something often expressed in terms of historical or mythical explanation. Hence, unless the good and solid jurisprudential reasons are given in the judgment and test has been made out, the Court can control the filing of such petition by limiting the heterodoxy by various Benches and Court. Moreover, this Court will also examine the (ii) anatomy of writ of *quo warranto* under Article 199 of the "Constitution" which is under Part-VII, Chapter-3 of the "Constitution" and (iii) pathology of Article 199 of the Constitution which deals with the Powers of High Court and its jurisdiction. The Court is aware of the fact that under writ of *quo warranto* there is no requirement for the Petitioner to be an aggrieved person, rather the writ of *quo warranto* can be instituted by a person despite he may not come within the meaning of word 'aggrieved person'. Further for issuance of a writ of *quo warranto*, the person invoking the jurisdiction of the High Court under Article 199 of the Constitution is not required to fulfill the stringent conditions required for bringing himself within the meaning of an aggrieved person as held by the Supreme Court of Pakistan in "Jawad Ahmad Mir v. Prof. Dr. Imtiaz Ali Khan, Vice-Chancellor, University of Swabi, District Swabi, Khyber Pakhtunkhwa and others" (2023 SCMR 162). While discussing the anatomy and pathology of Article 199 of the "Constitution", the Court shall frame moot points with anatomy of the jurisprudence of the Supreme Court of Pakistan and (iv) legal anthology of *quo warranto* will also be discussed in the light of Section 223-A of Government of the India Act, 1935, which was later continued in the Constitution of 1956.

Constitution of 1962 and the Constitution of 1973. However, the Article 199 of the "Constitution" starts with words Jurisdiction of High Court, which is subject to the "Constitution" when there is no other remedy available, any party can bring quo warranto because Article 199(1)(a) deals with aggrieved person and Article 199(1)(b) not necessarily required to be moved by an aggrieved person. The judgments of Supreme Court of Pakistan though have annunciated that there should be a time frame in bringing the writ petition of *quo warranto*. This Court by framing moot points will go through the guidance regarding the issue of laches and maintainability of a writ of *quo warranto* in connection therewith as the appointment of the Respondent No.5 was challenged by the Petitioner after lapse of a considerable time period.

II. CONTEXT OF THE CASE

3. Succinctly, the Respondent No.5 Muhammad Akram was appointed as a "Member Judicial, ATIR" vide the "*impugned Notification*" for a probationary period of one year under the Civil Servant Act, 1973 (the "Act") and the same was extendable for a further period of one year. As per version of the Petitioner, the Respondent No.5 is receiving benefits equivalent to a BS-21 Federal Government Officer despite being not qualified for such a position on the sole ground that previously he was accused of FIR No.297 of 2005 registered under Sections 420, 468 and 471, P.P.C., and his bail was cancelled by the Supreme Court of Pakistan vide order dated 15.12.2005. The case was resolved through compromise, which is not considered an honourable acquittal. Therefore, the Petitioner's stance is that the appointment of the Respondent No.5 violates proviso to Section 6 of the "Act".

III. PETITIONER'S SUBMISSIONS

4. Mr. Tanveer Iqbal, ASC, *inter alia* argues that the Respondent No.5 was not competent for the post due to his involvement in a criminal case; that proviso to Section 6 of the "Act" requires satisfactory character verification for a civil servant's probation period, but the Respondent No.5 was appointed without this verification; that the said Respondent was not acquitted on merits but his acquittal was based on a compromise, which cannot be termed as honourable acquittal. In support of his arguments, learned counsel has relied on "President National Bank of Pakistan and others v. Waqas Ahmed Khan" (2023 SCMR 766), "Jawad Ahmad Mir v. Prof. Dr. Imliaz Ali Khan, Vice Chancellor, University of Swabi, District Swabi, Khyber Pakhtunkhwa and others" (2023 SCMR 162), "Saqib Ali v. Government of Punjab and others" (2023 PLC (C.S.) 310) and "Mirza Shahzeb v. City Police Officer and others" (2023 PLC (C.S.) 749)

IV. RESPONDENTS' SUBMISSIONS

Submissions of Respondents Nos. 1 to 4

5. Malik Muhammad Siddique Awan, Additional Attorney General has raised objections to the maintainability of this petition on the ground of laches as the petition in hand was filed more than four years after issuance of the "*impugned Notification*". He relied on "*Sagib Ali v. Government of Punjab and others*" (2023 PLC (C.S.) 310), wherein the Supreme Court of Pakistan discussed the limitation period in such like cases and also defined a public office. Mr. Arshad Mahmood Malik, Assistant Attorney General maintained that the appointment of the Respondent No.5 was made by the Federal Government strictly as per Section 130 of the "*Ordinance*".

Submissions on behalf of the Respondent No.5

6. Barrister Asfandyar Khan Tareen, representing Respondent No.5, objected qua maintainability of the petition *inter alia* on the grounds that it was filed with the ulterior motive of defaming the senior-most Judicial Member after a significant delay; that Respondent No.5 was acquitted in all criminal charges before his appointment on the basis of compromise which is considered honourable; that Respondent No.5, with a 28-year legal career and having passed the Federal Public Service Commission exam, was rightly appointed as Member Judicial; that the acquittal of the Respondent No.5, in a criminal case is an honourable, leaving behind no negative impact upon his past character to create bar against his appointment in question. He has referred to judgments reported in "*Dr. Muhammad Islam v. Government of NWFP and others*" (1998 SCMR 1993), "*Malik Muhammad Ejaz Channar v. The State*" (PLD 2022 Lahore 427), "*Naimat Ullah v. The State*" (2021 PCr.LJ 1339 Sindh), "*Mst. Kulsoom v. Sessions Judge*" (2018 MLD 1484 Sindh), "*Muhammad Qasim v. Muhammad Iqbal*" (2017 YLR 752), "*Muhammad Zafar v. Rustam Ali*" (2017 SCMR 1639), "*Raja Muhammad Safdar v. District Returning Officer, Rawalpindi*" (2006 CLC 87), "*Ismail Ijaz v. The State*" (2023 PCr.LJ 114 Islamabad) and "*Nadeem Ahmad v. Saif-ur-Rehman*" (2021 MLD 354).

V. POINTS OF DETERMINATION

7. In order to examine the language of Article 199 of the "*Constitution*" and from the arguments advanced by the parties, the following moot points have arisen.

(1) *Whether the acquittal of Respondent No.5 from a criminal case, based on a compromise, can be considered an honorable acquittal?*

- (2) *Whether the Income Tax Ordinance, 2001 (the "Ordinance") provide any restrictions or conditions relating to character verification during the probationary period of Respondent No.5?*
- (3) *Whether the writ of quo warranto is maintainable?*
- (4) *Whether the writ petition is hit by laches?*
- (5) *Whether the office occupied by the respondent is a public one, and if so, is the respondent occupying this office lawfully?*

It is to be noted that whenever important constitutional issues are raised in a constitutional petition, the Courts always framed moot points in order to settle them strictly under Article 201 of the "Constitution". Since prudent approach to decide the cases, the Courts have to follow the principles already developed by the Superior Court and this Court under Articles 189 and 201 of the "Constitution". In order to avoid deviation from heterodoxy jurisprudence as well as to decide the lis between parties on basis of orthodox principles, this Court has discussed in details regarding framing of moot points and settling them in "Muhammad Umair v. Rawalpindi Cantonment Board and others" (PLD 2022 Lahore 148) by holding that "After framing of issues on constitutional moot points, this Court has narrowed down the law points and determined the fundamental rights of the Petitioner but while rendering judgment, the constitutional petition filed under Article 199 of the Constitution, if the writ petition is admitted for regular hearing, and after perusing the record from the report and parawise comments, the Court has to render a decision strictly as per Articles 199 and 201 of the Constitution. The decision or order could be a judgment or an order passed on the constitutional petition filed under Article 199 of the Constitution but those decisions are made under the established law of precedent under Article 201 of the Constitution, to have a binding effect and its principles have to be followed later. Article 201 of the Constitution states that a decision of High Court if (i) it decides a question of law or is (ii) based upon or (iii) enunciates a principle of law be binding on subordinate Courts. In this case, writ petition was filed on 21.04.2021 and after hearing the parties on 28.04.2021, the Court while admitting the writ petition directed the parties to file written statement. Thereafter, written statement was filed by the Respondents and perused by this Court, hence, before proceedings further, the Court framed moot points in order to render a judgment under Article 201 of the Constitution. It is a settled norm that the decision on a question of law can only be made if question of law is framed and highlighted from the pleadings. In this case the Court on 02.06.2021 framed the constitutional moot points, mentioned above, in order to render a judgment, while

keeping in mind the principles of law already established by the Superior Court, relied by both the counsel for the parties, then passed its decision on it to be called a decision or a judgment. Accordingly, the judgment then passed will consists of ratio decidendi, facts, arguments of the parties, moot points involved, and stare decisis and obiter dicta. The Constitution clearly empowers the Courts in Pakistan to render on these parameters regarding the question of law or based on question enunciated a principle of law. As every judgment of the Supreme Court is binding on all Courts under Article 189 of the Constitution, the same words are used in Article 201 of the Constitution but subject to Article 189 to follow its principle for consistency".

MOOT POINT NO.1

Whether the acquittal of Respondent No.5 from a criminal case, based on a compromise can be considered an honorable acquittal?

8. Mr. Tanveer Iqbal, ASC states that the criminal history of the Respondent No.5 is established vide FIR No.297 of 2005 and this factum disqualifies him from holding public office and though he was acquitted in that case on basis of a compromise, but said acquittal was not on merits, hence eventual result of said criminal case does not negate the serious allegations against him. While, Barrister Asfandyar Khan Tareen, Advocate for the Respondent No.5 submits that mere registration of an FIR against the Respondent No.5 is insufficient to deem his character as criminal, barring him from his impugned appointment and that too in a situation that aforementioned criminal case was got registered by uncle of Respondent No.5 in outcome of some family disputes. He further states that the matter was settled between the parties and the Respondent No.5 was acquitted by the Judicial Magistrate vide order dated 14.12.2006 and this order was upheld by the Additional Sessions Judge, Sargodha vide order dated 08.03.2008.

9. A careful examination of the facts and arguments from both sides reveals that the FIR against the Respondent No.5 was registered by his real paternal uncle over a property dispute. This dispute was amicably settled among the parties through compromise leading to acquittal of the Respondent No.5. Therefore, the mere registration of an FIR against Respondent No.5 cannot be used as a definitive test to label him as having a bad character. As far as argument of an honorable acquittal is concerned, the Court is of the view that all acquittals including acquittal on compromise are honorable for the reason that the prosecution has not succeeded to prove their cases against the accused on the strength of evidence of unimpeachable character. There can be no acquittals, which may be said to be dishonorable and the law has not

drawn any distinction between any types of acquittals. Reliance is placed on "Dr. Muhammad Islam v. Government of NWFP and others" (1998 SCMR 1993). The Respondent No.5 was acquitted by the Judicial Magistrate vide order dated 14.12.2006 and this order of acquittal was upheld by the Additional Sessions Judge, Sargodha vide order dated 08.03.2008. It shall, therefore, be presumed that the allegations levelled against him are baseless as, he has not been declared guilty. In presence of above meaning of "acquittal" the appellant is held to have committed no offence because the competent criminal courts have cleared him from an accusation or charge of crime. Moreover, once a person was acquitted by trial court, said person would stand shorn of stigma of any allegation and he would have to be deemed thereafter as innocent and having not committed any such crime. If acquittal of accused is not assailed before higher forum, such acquittal earned by accused from trial court, on whatsoever basis, would attain finality and pandora box of allegations could not be re-opened or used against him. In short, acquittal is an acquittal simpliciter and, must entail upon all consequences of pure acquittal. Reliance is placed on "Mumtaz Ali Shah v. Chairman, Pakistan Telecommunication Company Ltd., H.Q., Islamabad and 6 others" (PLD 2002 Supreme Court 1060). Additionally, order of acquittal of accused shall erase, efface, obliterate and wash away his alleged or already adjudged guilt in the matter apart from leading to setting aside of his sentence or punishment, if any. Reliance is placed on "Suo Motu Case No. 03 of 2017" (PLD 2018 Supreme Court 703).

MOOT POINT NO.2

Whether the Income Tax Ordinance, 2001 (the "Ordinance") provide any restrictions or conditions relating to character verification during the probationary period of Respondent No.5?

10. Pertinently, the Respondent No.5 was appointed as a Judicial Member of the ATIR vide the "impugned Notification" issued under Section 130(3) of the Income Tax Ordinance, 2001 (the "Ordinance"). According to the learned counsel for the Respondent No.5, at the relevant time of his appointment, the Appointment of Income Tax Appellate Tribunal Member's Rules, 1998 were in force having been issued vide SRO No. 5(1)/98. Aforementioned Section 130 dealing with appointment of Judicial Member of ATIR is reproduced as follows:

"130. Appointment of the Appellate Tribunal:-

(1) There shall be established an Appellate Tribunal to exercise the functions conferred on the Tribunal by this Ordinance.

(2) The Appellate Tribunal shall consist of a chairperson and

such other judicial and accountant members as are appointed by the Federal Government having regard to the needs of the Tribunal.

(3) A person may be appointed as a judicial member of the Appellate Tribunal if the person:-

(a) has exercised the powers of a District Judge and is qualified to be a Judge of the High Court;

(b) is or has been an advocate of a High Court and is qualified to be a Judge of the High Court;

(c) is an officer of Inland Revenue Service in BS20 or above and is a law graduate.

(underlined by me)

.....

11. For appointment as Judicial Member of Income Tax Appellate Tribunal, two categories of persons had been provided under Section 130(3) of the "Ordinance", one who had exercised powers of District Judge and the other who had been an Advocate of High Court, and both categories of persons were required to fulfil one common qualification i.e. they should be qualified to be a Judge of the High Court. Bare reading of aforementioned provision reveals that Section 130(3) of the "Ordinance" does not provide any restrictions or conditions relating to character verification during the probationary period of Respondent No.5. The provision never transpires any condition that mere involvement of a candidate in any criminal case/FIR would be sufficient to bring any clog for his appointment as a judicial member of ATIR. It is reiterated that the Respondent No.5 in aforementioned criminal case had never been adjudged as guilty of the charges, rather complainant of said case had entered into a compromise with him and he was admitted on basis thereof. Furthermore, no other occasion, besides registration of aforementioned FIR pertaining to any criminal liability of the Respondent No.5 has been brought on record by the Petitioner.

MOOT POINT NO. 3

Whether the writ of quo warranto is maintainable?

12. The writ quo warranto is provided under Article 199 of the Constitution and the same is reproduced for ready reference:

ARTICLE 199. Jurisdiction of High Court.

(1) Subject to the Constitution, a High Court may, if it is satisfied that no other adequate remedy is provided by law:-

(a)