



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 3(14)Misc/ABR/23

Pakistan Poverty Alleviation Fund

...Appellant

versus

Commissioner-Company Law, SECP

...Respondent

Date of hearing:

December 06, 2023

For the Appellant:

Mr. Feisal Hussain Naqvi, ASC

ORDER

1. This Order is in Appeal No. 3(14)Misc/ABR/23 (Objection Case) filed by M/s. Pakistan Poverty Alleviation Fund (the "Appellant") under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the "SECP Act").
2. Brief facts leading to the instant case are that the Appellant is aggrieved of the refusal letter dated September 08, 2021 (the "Impugned Letter") sent by the Director, Company Law Division, in response to an application dated September 07, 2021 whereby the Appellant sought prior approval of the Securities and Exchange Commission of Pakistan (the "Commission") for appointment of the Chief Executive of the Appellant Company. The Appellant vide Writ Petition No. 3928/2021 challenged the Impugned Letter before the Hon'ble Islamabad High Court, Islamabad and the same was dismissed vide order dated December 09, 2022 wherein it was *inter alia* held that remedy of appeal under section 33 of the SECP Act is available against the Impugned Letter. Subsequently, the Appellant filed the



Securities and Exchange Commission of Pakistan

instant Appeal against the Impugned Letter before the Appellate Bench (the "Bench"), however, registration of the same was declined by the Registry vide letter dated January 17, 2023 for reasons mentioned therein. The Appellant has challenged the said non-registration letter before the Hon'ble Islamabad High Court, Islamabad vide Writ Petition No. 322/2023 and the same is admitted vide order February 01, 2023 passed by the Hon'ble Islamabad High Court, Islamabad and is pending adjudication.

3. Earlier, notices were issued twice to the Appellant for a preliminary hearing on the issue of maintainability of the instant Appeal before the Bench, however, the matter was adjourned on both occasions on the request of the Counsel of the Appellant.
4. The Bench asked the Counsel of the Appellant to submit arguments with respect to maintainability of the instant Appeal, same being preferred against the Impugned Letter, to which the Counsel of the Appellant submitted that the question of maintainability of the instant Appeal before the Bench has already been determined by the Hon'ble Islamabad High Court, Islamabad vide order dated December 09, 2022 while deciding W.P. No. 3928/2021. In response to the query of the Bench that whether any hearing opportunity was provided to the Appellant before issuance of the Impugned Letter, the Counsel of Appellant responded that no hearing opportunity has been provided to the Appellant by the Director, Company Law Division before issuing the Impugned Letter. He further contended that the said officer of the Commission went beyond the scope of the Appellant's application dated September 07, 2021, which was merely an application to seek prior approval for appointment of the Chief Executive of the Appellant Company in terms of clause (xvi) of regulation 7 of the Associations with Charitable and Not for Profit Objects Regulations, 2018, and rather issued determination under the Public Sector Companies (Corporate Governance) Rules, 2013 which tantamount to treating the Appellant a 'public sector company'. The Counsel submitted that the Appellant has no objection if the matter is referred back to the concerned department of the Commission for deciding the matter on merits after giving opportunity of hearing to the parties.
5. The Bench has observed that the Appellant in both the petitions i.e. Writ Petition Nos. 3928/2021 and 322/2023 has also arrayed the concerned ministries of the Government of Pakistan. This shows that the

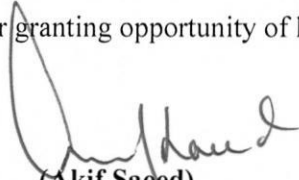
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Securities and Exchange Commission of Pakistan

matter at hand involves stakes of the relevant ministry/division as well which has also been confirmed by the Appellant.

6. In light of the foregoing, the matter at hand cannot be treated as an order of the Commission and is referred to the Divisional Head/Executive Director, Licensing & Registration Division (*formerly Company Law Division*) of the Commission, for decision through a speaking order, in accordance with law, after granting opportunity of hearing to all the parties concerned. Disposed of.


(Akif Saeed)
Chairman/Commissioner


(Mujtaba Ahmad Lodhi)
Commissioner

Announced on:

22 JAN 2024