

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P No.890 of 2023

Architect S.M Jehangir Khan Sherpao & others.

Versus

Pakistan Council of Architects and Town Planners through its
Registrar & others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(04)	09.05.2023	Mr. Umer Ijaz Gillani, Advocate for the petitioners. Syed Hassan Ali Raza and Barrister Masham Sheraz, Advocates for respondents No. 1, 3, 7, 10, 11, 13 and 16 to 19. Respondents No.2 and 8 in person. Mr. Aqeel Akhtar Raja, AAG. Mr. Sheroz Riaz, S.I, Cyber Crime Circle, Islamabad.

The learned counsel for respondents No. 1 at outset states that the petition is not maintainable as it has been held by this Court in **Mazhar Munir vs. Federation of Pakistan, etc (W.P No. 726/2019)** that respondent No.1 is not a person performing functions in connection with affairs of the Federation in view of the functions test laid down by august Supreme Court in **Pakistan International Airlines vs. Tanweer-ur-Rehman (PLD 2010 SC 676)**. The second contention is that under the bylaws of respondent No.1 an alternative remedy has been provided in bylaw No. 45. And even if the Court were to

conclude that the petitioner is a person within the meaning of Article 199 of the Constitution, the petitioners have an efficacious remedy available under the bylaws framed by respondent No.1. The third contention is that the petitioners have already availed the remedy and a complaint was filed under bylaw of 45 on the date of which the petitioners filed the instant petition and the fact of availing such remedy was not disclosed in the petition and the petitioner has therefore not come to the Court with clean hands. The fourth contention is that there is misstatement in the memo of the petition that despite filing of a complaint no action has been taken by the FIA. In fact FIA has initiated inquiry No.245/2023 and the respondents have also joined such inquiry and recorded their statements. The fifth contention is that petition alleges certain facts, which are not borne out by the record and the question of the correct result of the election constitutes a disputed question of fact which cannot adjudicated by this Court in its constitutional jurisdiction.

2. The learned counsel for the petitioner seeks time to review the response filed by respondent No.1. Let him to do so before

the next date of hearing. On the next date of hearing, the Court will hear arguments by the learned counsel for the petitioner and respondent No.1 only with regard to maintainability of the petition. The parties are also directed to file their cost of litigation statement under Section 35-A of the Code of Civil Procedure, 1908.

3. Re-list on **24.08.2023**.

(BABAR SATTAR)
JUDGE