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*Gul Naz Vs DEO Orakzai etc*

Or.....07  
05.01.2022

Presence as before. Through my this single order, I intend to dispose off an application U/O 7-R-11 CPC for the rejection of plaint, filed by the Defendants No. 02 & 03 against the plaintiff.

This application was strongly contested by the other party by filing replication and forwarding arguments thereto.

Brief facts of the case are that the plaintiff filed a suit for declaration cum perpetual and mandatory injunction against the defendants to the effect that the ancestors of the plaintiff and the defendants jointly gave the property for the construction of the Government Girls Primary School Zerha, Nawai Kalay, Orakzai. That at the time of the construction of the said school, it was agreed between the parties that Class-IV jobs will be equally distributed between them. That after the construction of the said school, the said jobs were equally distributed between the parties and one person from both sides was given the said jobs i.e Kazib Ali from the defendants side and Nozadi Jan from the plaintiff side were given the Class-IV jobs in the said school but now the afore-mentioned school has been upgraded from primary to middle and 02 more vacancies have come to existence in which the plaintiff has applied for but the defendants no. 02 & 03 have denied the right of the plaintiff and the defendants no. 02 & 03 illegally and forcibly want to get both the vacancies in violation of the agreement. That the defendant no. 01 is bound to equally distribute the Class-IV vacancies between the parties. That the defendant no. 01 has no right to appoint the candidates of defendants no. 02 & 03. That the aforesaid acts of the defendants are ineffective upon the rights of the plaintiff and it is very necessary to restrain them from doing the same. That the defendants were asked time and again not to do the aforesaid acts but they refused, hence, the present suit.

Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am

*Continues .....*


Rehmat Ullah Wazir  
Civil Judge/JM-I  
Orakzai (Bahar Mata)

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of the opinion that it is an admitted fact that the suit jobs are to be given by the Defendant No. 01, the District Education Officer (DEO), Orakzai and the same not in any of his Private Enterprise rather in a Government Department, fueled by the Public Exchequer and the same through an Advertisement i.e through an open competition, which can be joined by all the Eligible candidates belonging to District Orakzai as per the Advertisement available on case file. Admittedly, there is a so-called agreement between the plaintiff and the Defendants No. 02 & 03 but ironically about the mandate of the Defendant No. 01 i.e DEO, Orakzai, which has no legal value rather the same is void ab initio. The object of establishing a school anywhere by spending Public Money is very high and lofty, the educating of the generations. No one can be allowed to hinder that lofty object by acting in a stone age style like the present parties through a so-called agreement. Further, the present plaint is an attempt by the plaintiff to restrain the Education Department to go through the smooth process of recruitment in advance as no recruitment has yet taken place. This is misuse of the jurisdiction of a court and even wastage of the time of the court by filing such frivolous suit. Thus, the bare reading of the plaint does not disclose any cause of action against the defendants rather the same is a frivolous and baseless suit, therefore, the application in hand is Accepted and the plaint of the plaintiff is hereby ***Rejected U/O 7-R-11 CPC with costs.***

File be consigned to the Record Room after its necessary completion and compilation.

Announced  
05.01.2022

  
(Rehmat Ullah Wazir)  
Civil Judge-I,  
Orakzai at (Baber Mela)