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Or.....09
01.09.2021

Presence as before.

Through my this single order, indent to dispose off an application for the grant of temporary injunction, filed by the plaintiffs against the defendants.

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

Brief facts of the case are that the plaintiffs filed the instant suit for declaration-cum-perpetual and mandatory injunction to the effect that the plaintiff no. 01 gave landed property for the construction of the GPS, Dago, Takhtak Sheikhan in the year 2007-8 to the Education Department, Orakzai free of cost. That the education department promised to give all the vacancies of Class-IV employees to the plaintiffs after the construction of the school. That afterwards, the defendant no. 02 was given one vacancy of Class-IV through jirga on the condition that in case of upgradation of the said school, the land will be provided by the defendant no. 02 and the vacancies will be equally distributed between the plaintiffs and the defendant no. 02. That now, the school has been upgraded and the defendant no. 02 is bound by jirga deed to give one vacancy of Class-IV job to the plaintiffs and the defendant no. 01 is not entitled to recruit only the men of the defendant no. 02.

Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am of the opinion that the crux of the instant suit is the so called jirga decision between the parties through which the Class-IV jobs in the said school were distributed and the plaintiffs pray for its specific performance. The suit vacancies are public offices as per the law and the same are required to be filled through public competition which is to be open for the whole public of District Orakzai for participation. This is against law and public policy to purchase a

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Justice Shah Wazir
Civil Judge/JM-1
Orakzai (Babaz, Niela)

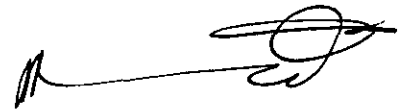
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public office through any consideration that may be the transfer of land etc. Thus, the alleged agreement between the parties is clearly illegal and against the public policy, thus, hit by sec. 23 of the Contract Act, 1872, the specific performance whereof could not be granted. Guidance in this respect is derived from SCMR 1997, page 855. Thus, in the light of the aforesaid findings, while deciding the application for temporary injunction, the plaint of the plaintiff is rejected being not maintainable in the eyes of law with costs.

File be consigned to the record room after its necessary completion and compilation.

Announced
01.09.2021



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