



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
APPELLATE BENCH REGISTRY

BEFORE APPELLATE BENCH

In the matter of

Appeal No. 06 of 2011

Agha Faquir Mohammad

..... Appellant

VERSUS

1. Registrar of Companies
2. Joint Registrar of Companies
3. Junior Executive

Securities and Exchange Commission of Pakistan

..... Respondents

Date of hearing

29-04-11

ORDER

Present:

Appellant:

Aga Zaheer, Advocate

Department representative:

Sidney Pereira, Joint Registrar

(In charge CRO, Karachi)



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
APPELLATE BENCH REGISTRY

1. This order shall dispose of appeal No. 06 of 2011 filed under section 33 of the Securities and Exchange Commission of Pakistan (the "Commission") Act, 1997 against the order dated 07-09-10 (the "Impugned Order") passed by Respondent No. 3.
2. The Appellant being a proposed sponsor of the proposed company to be licensed under section 42 of the Companies Ordinance, 1984 (the "Ordinance"), filed application for availability of name "Pakistan Community Services Association" on 09-08-10 along with the prescribed fee in the office of Respondent No. 1. Respondent No. 3 vide letter dated 09-08-10, raised objections to the Appellant's application for availability of name and stated inter alia that word "Association" is not appropriate for registration of the proposed company as it may be opted by trade bodies only. Further, Respondent No. 3 asked for main objects of the proposed company and in response the Appellant submitted the main objects of the proposed company and stated that the use of word "Association" in the proposed name seems appropriate as the word "Association" is not barred under the Ordinance or any other law for an "Association not for profit".
3. Respondent No. 3 through the Impugned Order informed the Appellant that the proposed name is not available under section 37 of the Ordinance as the proposed name is 'deceptive'.
4. The Appellant has preferred the instant appeal against the Impugned Order. The Appellant's counsel argued that the Appellant had applied for availability of name for an "Association Not for Profit" to be licensed under section 42 of the Ordinance and therefore use of the word "Association" is proper. The proposed name "Pakistan Community Services Association" does not suggest



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
APPELLATE BENCH REGISTRY

that it is a 'trade body' as is contemplated by the Respondent No 3. It was further argued that the Commission has allowed other companies to be registered under names similar to the proposed name. Examples of Education Development Association (Pvt.) Ltd , Baloch Welfare Association of Pakistan, Community Financial Services (Pvt.) Ltd, Citizen Community Co-ordination for development, Pakistan Buisness Corporation (Pvt) Limited were cited.

5. The department representative, in response to the objection, stated that the proposed name cannot be allowed in terms of section 37 of the Ordinance which provides that no company shall be registered by a name which in the opinion of the Commission is deceptive. It was further argued that the proposed name is generic whereas it should have been specific to the objects stated in the Memorandum of Association of the company.
6. We have heard the parties. Section 37(1) of the Ordinance is reproduced for ease of reference:

37. Prohibition of certain names- (1) "No company shall be registered by a name which in the opinion of the Commission is inappropriate or deceptive [...]"

We do not see how the proposed name "Pakistan Community Services Association" is deceptive, when names such as one cited in para 4 above have been granted by the department. We would refer to page 6 of "Availability of Name Guide" published by the Commission reproduced as under:



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
APPELLATE BENCH REGISTRY

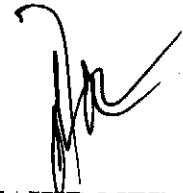
Association

This word may be included in the name of Companies to be established on grant of license by the Commission under section 42 of Ordinance or which are established as a Trade Organization under Trade Organizations Ordinance, 2007.

The bare perusal of the above extract leads us to the conclusion that the word “Association” may be included in the name of companies to be licensed under section 42 of the Ordinance.

In view of the foregoing, we hereby set aside the Impugned Order passed by Respondent No. 3 and hereby allow the name “Pakistan Community Services Association” to the Appellant. The proposed company shall, however, be licensed strictly in accordance with law


(MUHAMMAD ALI)
Chairman


(MR. TAHIR MEHMOOD)
Commissioner (CLD)

Announced on: 26th May 2011