

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No. D-2565 of 2024

(*Tipu Sultan Cooperative Housing Society Ltd v. Province of Sindh & Others*)

A N D

CP No. D-5868 of 2023

(*Shabbir Ahmed v. The Province of Sindh & Others*)

DATE:	ORDER WITH SIGNATURE(s) OF JUDGE(s)
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Before:

**Yousuf Ali Sayeed &
Sana Akram Minhas JJ**

Petitioner Society
(in CP No.D-2565/2024): Through, Mr. Khawaja Shams ul Islam, Advocate

Petitioner Shabbir Ahmed
(in CP No.D-5868/2023): Through, Mr. Khalil Ahmed Siddiqui, Advocate

Intervenor (Shabbir Ahmed)
(CMA No.16897/2024 in
CP No.D-2565/2024): Through, Mr. Muhammad Nadeem Khan, Advocate &
Mr. S.M. Intikhab Alam, Advocate

Intervenor (Magsi Family)
(CMA No.22150/2024 in
CP No.D-2565/2024): Through, Mr. S.M. Intikhab Alam, Advocate holding brief for
Mr. Najamuddin Magsi, Advocate

Official Respondent(s): Through, Mr. Sibtain Mehmood
Additional Advocate General, Sindh
along with Assistant Registrar(s), Cooperative Societies
viz. Mr. Ghulam Muhammad & Mr. Awais Taj Arain

Date(s) of Hearing: 17-4-2025, 29-4-2025, 21-5-2025 & 26-5-2025

Date of Decision: 21-7-2025

ORDER

1. **Sana Akram Minhas J:** The Petitioner in CP No.D-2565/2024, *Tipu Sultan Cooperative Housing Society Ltd* (“**Society**”), has assailed an order dated 6.5.2024 (“**Impugned Order**”) issued by the Respondents No.2 and 3 i.e. Registrar, Cooperative Societies, Sindh (“**Registrar**”), whereby the Society was directed to convene a Special General Body Meeting for the purpose of holding fresh elections for the President and the entire Managing Committee. In the same order, an Election Officer was appointed and tasked with

formulating the election schedule within 30 days of the receipt of the Impugned Order.

THE BRIEF FACTS

2. The Society has objected to the Impugned Order on the ground that elections were recently conducted on 26.11.2023, pursuant to the Court's order dated 24.11.2023 passed in the now disposed of CP No. D-5605/2023 (*Tipu Sultan Cooperative Housing Society Ltd v. Province of Sindh & Another*). These elections were held under the supervision of an Election Officer/Observer duly appointed by the office of the Registrar. Given that annual elections are mandated under the *Sindh Cooperative Societies Act, 2020* ("**Act 2020**"), specifically Rule 9(2) of the *Sindh Cooperative Societies Rules, 2020* ("**Rules 2020**") framed thereunder, and in light of the fact that the most recent elections were held barely five (5) months ago, the Society has contended that the issuance of the Impugned Order was both unwarranted and malafide.
3. On 27.5.2024, when the present matter was placed before the Division Bench of this Court for orders, the Court, while suspending the Impugned Order, directed as follows:

2-3. At the outset learned counsel for the Petitioner has referred Page 79 which pertains to election of the society conducted in December 2003 and according to counsel despite of such Notification election on the order passed by this Court in C.P No.D--5605/2023 Registrar has issued Notification while directing to conduct election within thirty [30] days. Whereas, election shall be held in December. Accordingly, issue notice to Respondents as well as A. G. Sindh for a date to be fixed by the office. Meanwhile impugned Notification is suspended; however, Petitioner/society shall conduct election in December 2024 as per law.

4. After the Society held the elections on 24.12.2024, the Registrar's office took the following two-fold actions:
 - i) First, by letter dated 1.1.2025, it declared the elections null and void for reasons stated therein – viz. the absence of a neutral observer or election officer, lack of quorum on the day of the election, and despite their directives contained in letter dated 23.12.2024 the Society proceeded with the elections without adhering to statutory guidelines
 - ii) Second, by letter dated 24.1.2025, the Registrar's office, purportedly exercising powers under Section 60 of Act 2020, communicated, inter alia, the decision to freeze the Society's bank accounts.

5. The Society has challenged both actions through contempt applications, maintaining that they constitute, inter alia, a violation of the Court's order dated 24.5.2024, which directed that elections be held in December 2024. These applications are:
- i) CMA No.1958/2025: This application assails the Registrar's letter dated 1.1.2025, whereby the elections held on 25.12.2024 were declared null and void.
 - ii) CMA No.1961/2025: This application challenges the freezing of the Society's bank accounts pursuant to the Registrar's letter dated 24.1.2025 and additionally seeks a direction for issuance of a notification formally declaring the results of the elections held on 25.12.2024.

RESPECTIVE SUBMISSIONS

6. Learned Counsel for Society submits that, in compliance with the Court's order dated 27.5.2024, elections were duly held on 25.12.2024. He states that the Society was constrained to proceed with the elections in the absence of an Election Officer and Observer, despite having repeatedly issued formal letters to the office of the Registrar (Respondents No.2 & 3) prior to the elections, informing it of the scheduled date and requesting the nomination of the requisite officials. He adds that the Society, acting in good faith, issued these letters even though the Registrar's office, being a party to the present proceedings, was already fully aware of both the Court's directive and the scheduled election date. However, no response was received. He points out that it was only after the elections were conducted on 25.12.2024, that the Registrar's office took adverse action – first declaring the elections a nullity and subsequently freezing the Society's bank accounts – on the purported ground that the elections were held without the presence of an Election Officer and Observer. This conduct, he maintains, is malafide and amounts to a blatant attempt to undermine and contravene the Court's order dated 27.5.2024, which had expressly directed that elections be held in December 2024.
7. Conversely, the learned AAG, representing the official Respondents, submitted that the order dated 27.5.2024 was passed in the absence of the Respondents, who therefore had no knowledge of it. Notwithstanding this, prior to the election of 25.12.2024, the Registrar's office had issued a letter dated 23.12.2024, conveying its objections to the holding of the elections. Post-elections, the Registrar's office issued another letter dated 1.1.2025 calling the elections invalid and detailing the defects in the elections held, which included absence of Election Officer and Observer; lack of necessary

quorum for holding the Annual General Meeting (“**AGM**”). The AAG further emphasized that the Society’s original prayer was mainly limited to challenging the Impugned Order on the ground that, since the Society’s elections had recently been held on 26.11.2023, the directive for holding a second election within less than a year was unjustified. However, the Society has now raised objections concerning developments that occurred subsequent to the filing of the present Petition. According to him, the appropriate course for addressing such post-filing developments would be through a fresh or separate petition, rather than by invoking contempt proceedings.

8. Mr. Muhammad Nadeem Khan, learned Counsel for the Intervenor Shabbir Ahmed (in CMA No.16897/2024), in his brief submissions, contended that the Intervenor had raised objections regarding the eligibility of certain candidates who participated in the said elections, but those objections remain unaddressed.
9. The aforementioned Intervenor, Shabbir Ahmed, who has also instituted a connected Petition viz. CP No.5868/2023 – in which he is represented by his learned Counsel, Mr. Khalil Ahmed Siddiqui – again argued through the latter that, in accordance with the applicable rules, elections were required to be held in December 2024 for the office of the President and the entire Managing Committee. However, the Society conducted elections for only one-third (1/3rd) of the Managing Committee members, thereby invalidating them.
10. Submissions have been duly heard, and the relevant record has been examined.

OPINION OF THE COURT

11. We now proceed to address the contentions of the parties point by point.

Whether The 25.12.2024 Elections And Related Disputes Are Beyond The Scope Of The Pleadings

12. As the Society had already conducted elections on 26.11.2023 in compliance with the Court’s directives dated 24.11.2023, issued in earlier proceedings (disposed of CP No. D–5605/2023), it proceeded to challenge, through the present Petition, the Impugned Order dated 6.5.2024, which required it to convene a Special General Body Meeting to conduct fresh elections for the President and the entire Managing Committee. The said

Order also appointed an Election Officer to devise the election schedule within 30 days.

13. Subsequently, on the Society's interlocutory application, the Court suspended the operation of the Impugned Order and directed the Society to hold elections in December 2024, which were in any case due at that time. In compliance with this direction, the Society conducted elections on 25.12.2024.
14. It was only after the elections had been held that the Registrar's office took two successive steps: first, by letter dated 1.1.2025, it declared the elections null and void on the grounds set out therein; and second, by letter dated 24.1.2025, it invoked its purported authority under Section 60 of the Act 2020 to order the freezing of the Society's bank accounts.
15. Given that these elections were conducted pursuant to the Court's directives issued in the present proceedings, it is both appropriate and procedurally consistent for the Society to bring through interlocutory applications or proceedings raising possible non-compliance of its orders, the post-election issues that arose after 25.12.2024 within the framework of this Petition. The mere fact that the Society could have filed a separate petition to address these post-election issues does not preclude it from raising them in the present proceedings. To hold otherwise would result in an artificial procedural segregation of issues that are inherently connected, risk conflicting judicial outcomes, and unnecessarily multiply proceedings, contrary to the principles of judicial economy and effective enforcement of court orders.
16. Accordingly, the argument that issues relating to the elections of 25.12.2024 are extraneous and fall outside the scope of the pleadings is misconceived and untenable.

Knowledge And Lack Of Timely Response Of Official Respondents Regarding Society's Elections Scheduled For 25.12.2024

17. The Order Sheet indicates that subsequent to the Court's stay order dated 27.5.2024, from 10.10.2024 onwards, an AAG (representing the Respondents) was present on every date of hearing. The Advocate General's office was under a duty to acquaint itself with the contents of the Order Sheet, including all prior orders passed by the Court. Therefore, even if the official Respondents were not present on the date the order dated 27.5.2024 was issued, it is difficult to accept that they remained unaware of it thereafter, particularly when they were being represented through the AAG.

18. Furthermore, if, as argued by the AAG, the directions to hold elections in December 2024 exceeded the scope of the pleadings, the Respondents (through the AAG) had several opportunities to approach the Court to seek clarification or modification of the interim stay order dated 27.5.2024. In the circumstances, it cannot be plausibly contended that during the pendency of CP No.D–2565/2024 either the Respondents or the Advocate General's office remained unaware of the order dated 27.5.2024 for such an extended period of time i.e. until 25.12.2024, when the elections were in fact conducted.
19. Irrespective of the above, the record also reflects that following the order dated 27.5.2024, the Society repeatedly informed the Registrar's office of the proposed AGM and sought the nomination of an Election Officer/Observer, in accordance with Section 12(2) of Act 2020 and Rule 9(5) of Rules 2020. The Society's communications were acknowledged by the Registrar's office, and include letters dated 3.9.2024, 9.9.2024, 29.11.2024, 2.12.2024, 10.12.2024 and 16.12.2024¹.
20. In the interim, between the aforementioned letters issued by the Society, the Registrar's office addressed a communication dated 19.9.2024² to the Society, relaying the objections raised by Mr. Najamuddin Magsi ("**Magsi**") – an Advocate who also serves as the authorized attorney of the Intervenor (i.e. the Magsi family) in CMA No.22150/2024. The letter referred to a complaint purportedly made by the said Magsi, alleging unspecified "*grave issues*" but notably failed to identify or articulate the nature of those issues or enclose a copy of the complaint itself. He objected to the holding of elections scheduled for December 2024. The Society responded promptly via its letter dated 20.9.2024³, categorically rejecting the objections on the ground that Magsi was not a member of the Society and, therefore, lacked locus standi to raise such objections. The Society's position in this regard remained uncontroverted. More importantly, no further steps appear to have been taken by the Registrar's office in response to the said objections. This official silence – both procedural and substantive – can reasonably be construed as either tacit acceptance of the Society's response or, at the very least, a failure on the part of the Registrar's office to pursue or sustain the objections raised through Magsi. In either case, the inaction significantly undermines the weight or urgency of the objections themselves.

¹ At Court File Pgs. 1029, 1031, 1039, 1043, 1057, 1059

² At Court File Pg. 1033

³ At Court File Pg. 1035

21. Additionally, the Counter-Affidavit to the Magsi family's Intervenor application (CMA No.22150/2024) annexes an "*Affidavit From Purchaser*"⁴, wherein the Intervenor's have categorically undertaken that, having been registered as Associate Member, they understand they are not entitled to vote in any election. For this reason as well, the Intervenor's have no standing in relation to the elections and cannot assert any right to participate in or challenge the same.
22. It was only at the eleventh hour that the Registrar's office finally issued a letter dated 23.12.2024⁵ to the Society, wherein it raised objections to the election process being undertaken and stated that the same was not acceptable to it. The Society's Counsel has contested the authenticity of this letter's date, asserting that it is in fact dated 28.12.2024 – i.e. after the elections had already taken place on 25.12.2024.
23. However, even assuming for argument's sake that the letter was indeed issued on 23.12.2024 and despatched via courier⁶ the same day, the earliest it could have been received by the Society would have been on 24.12.2024 i.e. merely one day before, or on the eve of, the scheduled elections. By that time, the election process was already well underway, with logistical arrangements made, notices issued/published and members mobilized. A last-minute objection of this nature, whether received just a day before or even after the elections, was manifestly too late for the Society to halt or reverse the electoral process in any meaningful way. Rather, the timing of the objection appears to have been a calculated step, taken with mala fide intent to throw a spanner in the works at the last possible moment – at the tail end of the process – to create disruption or confusion.
24. With regard to the learned AAG's contention that on an earlier occasion – specifically the elections of December 2023 – when the Registrar's office had failed to nominate an Election Officer and an Observer, the Society had filed aforesaid disposed of CP No.D–5605/2023 and obtained directions from the Court for such nominations, and that the Society ought to have followed a similar course of action in the present case by approaching the Court instead of proceeding with the elections without the Registrar's nominees. It is submitted that this argument is misplaced.
25. Merely because the Society had, on a prior occasion, approached the Court to compel compliance with a statutory obligation, does not create a binding

⁴ At Court File Pg. 485

⁵ At Court File Pg. 1061

⁶ The letter dated 23.12.2024 was issued by Ghulam Muhammad (PCS), Assistant Registrar; however, the TCS courier dispatch receipt is dated 23.1.2025 (at Court File Pg. 1111) and lists Awais Taj Arain, another Assistant Registrar, as the shipper

precedent requiring the Society to follow the same trajectory in every subsequent instance – particularly when the default lies with the Registrar’s office. To impose such an obligation would be to place an unreasonable and impractical burden on the Society, effectively making the conduct of timely elections contingent upon continuous judicial intervention to rectify administrative inaction.

26. To do so would not only encourage public authorities to evade their statutory duties with impunity, knowing that the burden of securing compliance will fall on private parties through litigation, but would also clog judicial fora with preventable disputes arising solely from bureaucratic inaction. The law does not compel a party to indefinitely seek judicial recourse in the face of repeated administrative neglect, especially when the statutory timeline (and additionally in this case the Court’s order dated 27.5.2024) for elections must be respected. The Registrar’s failure to act cannot be turned into a ground to penalize the Society for proceeding in good faith and within the framework of the law.
27. The Registrar’s office cannot be permitted to weaponize the statutory requirement of nominating an Election Officer and/or an Observer (under the Act and Rules 2020) by deliberately withholding such nominations, only to later raise objections to the validity of elections on the very ground of non-compliance with those same procedural requirements. To do so would amount to enabling administrative ambush tactics, whereby a public authority frustrates the statutory process through inaction and then relies on that very inaction to invalidate the outcome. Such conduct not only undermines the integrity of the electoral process but also violates principles of fairness, due process, and administrative propriety. A statutory obligation cannot be selectively enforced or used as a tool to sabotage compliance when a party (in this case the Registrar’s office) has actively or negligently prevented its own role from being fulfilled.
28. Such an approach reflects administrative impropriety, a misuse of statutory authority, and a deliberate subversion of the statutory framework. This conduct is highly objectionable, as it falls significantly short of the standards expected of a public office operating under a statutory mandate, and is wholly incompatible with the duties of a statutory authority required to act in good faith. It not only undermines the rule of law but also violates fundamental principles of transparency, fairness, and good governance.
29. Had the Registrar’s office nominated the concerned officials, and had those officials attended the AGM, they would have been in a position to observe the proceedings firsthand and raise any objections regarding the conduct of

the elections, if warranted. Attendance at the meeting, provides an opportunity to monitor compliance and, where necessary, record any procedural or legal irregularities for appropriate action.

30. In sum, the sequence of events, the belated objection from the Registrar's office, and the absence of any timely or meaningful action on its part left the Society with no viable alternative but to proceed with the holding of elections. These were conducted after providing due notice and in substantial compliance with the applicable statutory requirements. By the time the elections were held on 25.12.2024, all necessary preparations had been made, and no legal bar, injunction, or prohibition was in place that could be said to restrain, prohibit, or otherwise vitiate the electoral process. In these circumstances, the legality and procedural validity of the elections stand affirmed, not undermined, by the official inaction and the chronology of events.

Quorum Requirements And Election For One-Third Of The Managing Committee

31. It has been alleged that the AGM held on 25.12.2024 for the purpose of conducting elections lacked the requisite quorum – which, under Bye-law No.41 of the Society's governing bye-laws, is fixed at "*three-fifth [3/5th] of the total number of members of the Society for the time being or 20 members of the Society whichever number is the lesser*". It was contended that the number of members present on the said date fell short of the prescribed quorum, thereby rendering the elections invalid for want of quorum.
32. The record discloses that immediately following the elections, the Society, through its Advocate, issued a letter dated 26.12.2024⁷ to the Registrar's Office, inter alia informing it of the election results and enclosing various supporting documents. Among the attachments were the Minutes of the 33rd AGM dated 25.12.2024 and the Attendance Sheet⁸ for that day. The Attendance Sheet clearly records the presence of 25 members, including the Intervenor Shabbir Ahmed (Petitioner in CP No.D–5868/2023) – a number which exceeds the minimum quorum requirement of 20 as stipulated in the Society's Byelaw No.41.
33. Notably, no objection has been raised regarding the authenticity or accuracy of these documents, nor was any protest lodged regarding the quorum at the relevant time by those present – in particular the Intervenor Shabbir Ahmed

⁷ At Court File Pg. 1293

⁸ At Court File Pgs. 1335 & 1347

who had participated in the elections. Moreover, regardless of the above, apart from a bare assertion, no documentary or photographic evidence has been produced by the Respondents in support of this allegation. In the absence of any substantiated challenge, the objection stands unproven and lacks credibility.

34. As for the assertion that the elections were rendered invalid as entire Managing Committee was required to be elected – and not merely one-third (1/3rd) of its members, as was done by the Society on 25.12.2024 – Rule 9(2) of Rules 2020 expressly provides that elections of a cooperative society are to be held annually for the office of the President and for one-third (1/3rd) of the members of the Managing Committee. The scope and structure of the Society's elections held on 25.12.2024 appear to be fully consistent and in line with the governing legal framework. Accordingly, the allegation of invalidity on this ground is found to be misconceived and without merit.

Eligibility Of Successful Candidates Elected On 25.12.2024

35. It has been contended on behalf of the Intervenor Shabbir Ahmed (also the Petitioner in CP No.D–5868/2023), that the successful candidates were not eligible to contest the elections held on 25.12.2024, since they had already been in office for at least the past five (5) years prior to elections of 25.12.2024. This, it is argued, is in contravention of Rule 9(4) of the Rules 2020, which bars a person from contesting elections to any office of the Managing Committee for more than two consecutive terms, though such a person may re-contest after a gap of one year for another two consecutive terms. It has been further argued that, since the Society's elections are required to be held annually under Rule 9(2) of the same Rules, in the present context the phrase "*more than two consecutive times*" therefore means more than two consecutive years.
36. It is borne out from the record that the Intervenor (Shabbir Ahmed), had participated in, but was unsuccessful in, the elections held on 25.12.2024. However, when specifically queried by the Court as to whether any documentary evidence or written objection had been submitted either to the Society or to the office of the Registrar in this regard, his Counsel conceded that no such document or communication had been issued.
37. Notwithstanding the absence of any formal protest, upon a pointed query from the Court, the Society's Counsel referred to the record, in particular the Minutes of the 32nd AGM dated 26.11.2023 (on which day elections were also held) and 33rd AGM dated 25.12.2024 (on which day last elections were

held) and demonstrated that the candidates declared successful in the elections of 25.12.2024⁹ were not the same individuals who had contested the earlier elections held on 26.11.2023¹⁰. This factual position, as reflected in the record, was not disputed or controverted by any of the opposing Counsel. Moreover, the fact that elections have been held annually in consecutive years (precisely, on 26.11.2023 and 25.12.2024) further undermines the allegation that the successful candidates in the December 2024 elections have continuously held office for the past five years, as alleged.

CONCLUSION

Society's CP No.D-2565/2024

38. In light of the foregoing, and particularly since the elections held on 25.12.2024 have been found to be legally valid, the Registrar's letter dated 1.1.2025 (purporting to declare the said elections as null and void) and the subsequent letter dated 24.1.2025 (directing the freezing of the Society's bank accounts) are held to be without lawful authority and of no legal effect. Consequently, both actions are set aside being unsustainable. As a necessary corollary, the Registrar's office is directed to:
 - i) Formally notify the results of the elections held on 25.12.2024;
 - ii) Issue appropriate instructions to the concerned bank(s) for the immediate unfreezing of the Society's accounts;
 - iii) Ensure compliance with the above directions within fourteen (14) days from the date of this Order, and place a compliance report on record without delay.
39. As the participation of the Intervenor(s) has been ensured through legal representation and their contentions which are on record, have been considered on merit and adjudicated upon, their formal impleadment as parties is not required. Their CMAs No.16897 and 22150 of 2024 thus stand **dismissed** as infructuous.
40. The Society's Petition bearing CP No.D-2565/2024, along with its CMAs No.1958 and 1961 of 2025 is **disposed of** in the above terms. All other pending applications, if any, not specifically dealt with herein, are also disposed of. There shall be no order as to costs.

⁹ At Court File Pg. 1343 & 1345

¹⁰ At Court File Pg. 89, 91 & 1333

Shabbir Ahmed's CP No.D-5868/2023

41. This Petition pertains to a challenge against the elections held on 26.11.2023 (incorrectly referred to as 24.11.2023 in Prayer Clause "a" of the main Petition). However, as the term of the said elections has run its course and fresh elections have since been conducted on 25.12.2024 (which are the subject-matter of CP No.D-2565/2024), this Petition bearing CP No.D-5868/2023 has been rendered infructuous and is accordingly **dismissed** as such along with pending application(s). There shall be no order as to costs.

Society's Contempt Application (CMA No.11469/2024) In Disposed Of CP No.D-5605/2023

42. The Society had earlier filed this CP No.D-5605/2023 (*Tipu Sultan Cooperative Housing Society Ltd. v. Province of Sindh & Another*), seeking the Court's intervention for the appointment of an Election Officer/Observer to oversee the Society's elections scheduled for 26.11.2023. The said Petition was disposed of vide order dated 24.11.2023, whereby directions were issued to the competent authority for such appointment, thereby concluding the matter.
43. Thereafter, when the Registrar's office issued the Impugned Order along with consequential correspondence, the Society filed a contempt application (CMA No.11469/2024), alleging that these actions were in violation of the Court's earlier order dated 24.11.2023 (passed in the disposed of Petition). Subsequently, however, the Society also instituted a separate Petition, viz. CP No.D-2565/2024, wherein the same Impugned Order and related correspondence were directly challenged. In view of the fact that the alleged acts of contempt arise from the very documents already adjudicated upon and disposed of in the aforesaid CP No.D-2565/2024 (in paragraphs 38 to 40 above), the contempt application amounts to a parallel and redundant proceeding. Accordingly, Society's CMA No.11469/2024 is **dismissed** as infructuous. There shall be no order as to costs.

JUDGE

JUDGE

Announced On: 22nd July, 2025