

# HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

C.P No.D-639 of 2023

[Ali Dino

Vs.

Medical Superintendent CMC Larkana & 06 others]

## **Present:**

**Mr. Justice Arbab Ali Hakro**

**Mr. Justice Abdul Hamid Bhurgri**

Petitioner : Ali Dino son of Ali Khan Abbasi,  
through Mr. Abdul Sattar Hulio,  
Advocate

Respondent No.1, 3 to7 by : Mr. Liaquat Ali Shar, Additional  
Advocate, General, Sindh a/w  
Dr.Ashfaq Ahmed Soomro, focal  
person of Respondent No.1

Respondent No.2 : Dr. Habib Ahmed Soomro, Incharge  
RBC, Shaikh Zaid Hospital, Larkana,  
through Mr. Ashfaq Hussain Abro,  
Advocate

Dates of hearing & decision : **30.10.2025**

## **ORDER**

**ARBAB ALI HAKRO, J:-** Through this constitutional petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioner Ali Dino Abbasi, seeks declaratory and injunctive relief against the closure of the Sindh Blood Transfusion Authority (“SBTA”), a Blood Bank situated within the precincts of Chandka Medical College Hospital (CMCH), Larkana. The Petitioner avers that the impugned actions of Respondents No.1 and 4 vide office order dated 20.09.2023 and directive of even date are illegal, mala fide and violative of the principles of natural justice.

2. The Petitioner, claiming to espouse a cause *pro bono publico*, asserts that the SBTA, the Blood Bank working at CMCH Larkana, was established pursuant to a registration certificate issued by the Respondents No.3 and 4 under Certificate No. PPM/SBTA/2881 dated 10.04.2006. The said facility, operating non-commercially, purportedly catered to patients from five districts of Larkana Division and even from Jhal Magsi, Balochistan, dispensing blood free of cost to indigent and emergency patients. It is further stated that the blood bank played a pivotal role in supporting the newly inaugurated Trauma Centre in Larkana, and its abrupt closure has precipitated a public health crisis. The Petitioner alleges the closure was orchestrated to benefit private blood bank operators. The alternative arrangement, routing blood supply through the Regional Blood Centre (RBC) Sukkur, is logistically inadequate and procedurally flawed. The Petitioner also impugns the appointment of Respondent No.2 as in-charge of RBC Larkana, asserting that he lacks the requisite qualifications in pathology, thereby undermining the integrity of transfusion protocols.

3. Respondent No.4, Secretary SBTA, in her para-wise comments, refutes the Petitioner's assertions and submits that the CMCH blood bank had failed to renew its license for over 17 years, rendering its operations illegal under the Sindh Transfusion of Safe Blood Act, 1997. It is further alleged that the facility employed substandard screening methods (ICT kits), lacked essential equipment (ELISA/CLIA machines) and operated in unhygienic conditions, thereby posing grave risks to public health, particularly in light of the HIV outbreak in Larkana. He maintains that the closure was necessitated by repeated non-compliance and was executed in accordance with a Memorandum of Understanding between the Government of Sindh and RBC Sukkur.

It is asserted that the hospital-based blood bank linked to RBC Sukkur operates round-the-clock, providing safe and free-of-cost blood to patients of CMCH, Civil Hospital Larkana and Sheikh Zaid Women Hospital.

4. Respondent No.2, in his written reply, denies any nexus with private blood bank operators and contends that the petition is motivated by extraneous considerations. He submits that qualified personnel stationed at RBC Sukkur exercise technical oversight of pathology functions.

5. Respondent No.6, Secretary Health Department, adopts the reply of Respondent No.4 and submits that the impugned actions were taken in the interest of public safety and in accordance with law.

6. We have heard learned counsel for the Petitioner, Respondent No.2, and the learned Additional Advocate General and have meticulously perused the record. The matter at hand, though couched as a *pro bono publico* petition, warrants a deeper scrutiny not merely of administrative action but of the legal substratum governing blood transfusion services in the province of Sindh.

7. At the outset, it is imperative to delineate the contours of maintainability. The Petitioner has not demonstrated any direct injury, personal grievance, or institutional affiliation with the impugned facility. The pleadings are bereft of any cogent material establishing his *locus standi* within the meaning of Article 199 of the Constitution. The Judgment of the Supreme Court of Pakistan, *inter alia*, in *Moulvi Iqbal Haider*<sup>1</sup> has consistently held that public interest litigation must be

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<sup>1</sup> Moulvi Iqbal Haider v. Federation of Pakistan (PLD 2006 SC 394)

anchored in demonstrable public harm, not speculative grievance. The Petitioner's averments, though emotively couched, fail to transcend the threshold of justiciability.

8. Turning to the substantive challenge, the closure of the SBTA at CMCH Larkana was effectuated pursuant to Office Order No. CMCHL-E(P.S)/12626/35 dated 20.09.2023, issued in compliance with the directive of the Secretary, SBTA. The authority, established under the Sindh Transfusion of Safe Blood Act, 1997, is statutorily mandated to regulate, monitor, and ensure the safe collection, screening, and distribution of blood and blood products across the province.

9. The respondents have adduced a comprehensive catalogue of infractions attributed to the SBTA blood bank, each of which cumulatively impugns its operations' legality, safety, and procedural integrity. Foremost among these is the egregious failure to renew its registration license for over 17 (seventeen) years, thereby rendering its continued functioning patently *ultra vires* the Sindh Transfusion of Safe Blood Act, 1997. The facility's reliance on inferior screening kits, specifically Immunochromatographic Test (ICT) devices, has been medically deprecated, given their inability to reliably detect transfusion-transmitted infections (TTIs) such as HIV and Hepatitis B/C. The absence of indispensable diagnostic and preservation apparatus, including ELISA/CLIA machines, cryofuges and cold chain infrastructure, further compromises its operational efficacy. Moreover, the employment of untrained personnel in contravention of statutory mandates concerning professional qualifications exacerbates the risk to patient safety. The blood bank's deviation from internationally endorsed Standard Operating Procedures, most notably its irrational

use of whole blood instead of component therapy, as proscribed by the AABB Technical Manual (18th Edition, Chapter 28, Page 697), constitutes a grave breach of transfusion ethics. Finally, its existence stands in direct violation of provincial policy, which unequivocally stipulates that tertiary care hospitals must source blood exclusively through Hospital-Based Blood Banks (HBBS) affiliated with Regional Blood Centres (RBCs), thereby rendering the CMCH facility institutionally redundant and procedurally untenable.

10. These infractions are not merely administrative lapses but constitute a systemic failure with grave implications for public health. The executive discretion must be exercised in conformity with law, reason, and public interest. In light of the above violations, the closure of the SBTA blood bank cannot be termed arbitrary or mala fide. Rather, it reflects a necessary regulatory intervention to safeguard transfusion safety and uphold the integrity of public health infrastructure.

11. It is also noteworthy that none from within the SBTA hierarchy has impugned the closure, nor has any internal dissent or procedural irregularity been brought to the fore. The administrative action stands fortified by institutional consensus and statutory backing.

12. Regarding the Petitioner's allegation that private blood banks supply unhygienic blood, the respondents have categorically denied any such nexus. The World Health Organization's guidelines on component therapy further negate the Petitioner's claim that separation of white cells renders blood unhygienic. On the contrary, component separation enhances therapeutic efficacy and minimizes transfusion-related complications.

13. While the petition is liable to be dismissed for want of merit and *locus standi*, we cannot remain insouciant to the broader public health implications. Before issuing directions, it is imperative to clarify the constitutional basis upon which this Court proceeds. The Petitioner has challenged the closure of a public blood bank and raised concerns regarding the continuity, safety and accessibility of transfusion services. In adjudicating these claims, the Court is not merely resolving a private grievance but is confronted with a matter that implicates the health and dignity of vulnerable citizens across Larkana Division.

14. In such circumstances, we invoke the doctrine of *parens patriae*, a well-established constitutional principle whereby the judiciary assumes the role of protector for those unable to safeguard their own interests, particularly the indigent, infirm, and voiceless. This doctrine empowers constitutional courts to issue protective and corrective directions in aid of justice, especially where executive inertia or regulatory failure threatens fundamental rights. It is equally necessary to advert to the **26<sup>th</sup> Amendment to Article 199(1)(c)(1A)** of the Constitution, which now provides:

*“For removal of doubt, the High Court shall not make an order or give direction or make a declaration on its own or in the nature of suo motu exercise of jurisdiction beyond the contents of any application filed under clause (1).”*

15. The directions issued herein do not transgress this constitutional boundary. They are neither *suo motu* nor gratuitous. Rather, they are incidental, ancillary, and consequential to the reliefs sought in the petition and arise directly from the factual matrix and pleadings placed before the Court. They are necessitated by the record, which reveals a pattern of regulatory neglect and institutional vulnerability and are issued strictly within the four corners of the petition.

16. Accordingly and in exercise of this Court's jurisdiction under Article 199, the following directions are issued in the interest of public health, institutional accountability and constitutional fidelity: -

- i. Respondents No.1 and 4 (Medical Superintendent CMCH and Secretary SBTA) shall ensure that the transition to RBC-linked blood supply is seamless, uninterrupted and accessible to all patients, particularly those in emergency wards, trauma centres and ICUs.
- ii. SBTA shall conduct quarterly audits of all Hospital-Based Blood Banks and Regional Blood Centres across Sindh to ensure compliance with screening protocols, equipment standards and staffing qualifications. A compliance report shall be submitted to the Health Department and available for public inspection.
- iii. The Health Department (Respondent No.6) shall establish a grievance redressal mechanism for patients and attendants to report any disruption, denial, or malpractice in blood transfusion services. Such complaints shall be addressed within 72 hours.
- iv. No blood bank, whether public or private, shall operate without valid registration, equipment certification and adherence to SOPs. Any deviation shall attract penal consequences under the Sindh Transfusion of Safe Blood Act, 1997.
- v. The Secretary SBTA shall ensure that all private blood banks within Larkana Division reaffirm their undertakings not to supply blood to government hospitals and that such undertakings are periodically verified.
- vi. The Government of Sindh is directed to allocate budgetary resources for upgrading screening infrastructure, including procurement of ELISA/CLIA machines and capacity-building of transfusion staff.

17. In view of the foregoing, the petition is **dismissed** as being devoid of merit and lacking *locus standi*. However, the directions issued hereinabove shall be treated as binding and implemented forthwith in the interest of public health and institutional accountability.

18. Let a copy of this Order be transmitted forthwith to the following authorities for immediate compliance and institutional oversight:

- i. Secretary, Health Department, Government of Sindh, Karachi;
- ii. Secretary, Sindh Blood Transfusion Authority, Karachi;
- iii. Medical Superintendent, Chandka Medical College Hospital, Larkana;
- iv. Director General, Health Services Sindh, Hyderabad
- v. District Health Officer, Larkana
- vi. Principal, Chandka Medical College, SMBBMU, Larkana

16. These authorities shall treat this Order as binding and take all necessary steps to implement its terms in letter and spirit, ensuring that the public interest directions herein are carried out without delay or deviation.

**JUDGE**

**JUDGE**

**Qazi Tahir PA/\***