

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA**

Before:

***Mr. JUSTICE RIAZAT ALI SAHAR,
Mr. JUSTICE ALI HAIDER 'ADA',***

C.P No. D-460 of 2026

[Abdul Ghaffar Jatoi v. Province of Sindh & Others]

Counsel for Petitioners:	Mr. Abdul Qudoos Jatoi, Advocate along with petitioner.
Counsels/ Representatives for Respondents:	Mr. Liaquat Ali Shar, Addl. Advocate General with ample assistance provided by Mr.Mohsin Ali Khan, Assistant Advocate General, Sindh. Mr. Riaz Hussain Khoso, Deputy Attorney General for Pakistan. Mr. Sarfaraz Ali Maitlo, Advocate for Respondent No.09 & Mr. Asif Hussain M. Nawaz Chandio, Advocate for Respondent No.08. M/s Nisar Ahmed Memon, Controller Exams. SPSC and Muhammad Isahaque, Deputy Controller, SPSC.
Date of Hearing and Judgment:	23.06.2026

JUDGMENT

RIAZAT ALI SAHAR, J.- The brief background of the present petition is that upon the completion of tenure of the former Chairperson of the Sindh Public Service Commission, the Chief Secretary, Government of Sindh, through Notification dated 14-05-2026, directed Respondent No. 9, who was serving as a Senior Member of the Commission, to assume charge of the office of Chairperson. It is the case of the petitioner that such assumption of charge is alien to

the Sindh Public Service Commission Act, 2022 and the Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022, which prescribe a specific and exclusive mode for appointment of the Chairperson. Despite the absence of a lawful appointment, Respondent No. 9 has continued to perform the functions of Chairperson and has exercised statutory powers, including but not limited to announcement of result of examinations, giving rise to the present constitutional petition. Thus, seeking following relief:

- a. **“Declare** that the impugned notification dated 14-05-2026, issued through the office of the Chief Secretary, Government of Sindh, whereby Respondent No.8 was directed to assume charge of the office of Chairperson, SPSC, is unconstitutional, ultra vires the Sindh Public Service Commission Act, 2022 and the Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022, without lawful authority and of no legal effect;
- b. **Set aside**, recall, quash and/or strike down the impugned notification dated 14-05-2026;
- c. **Declare** that the Results/Press Releases dated 25-05-2026, purportedly issued, approved and/or announced under the authority of Respondent No. 9 while acting as Chairperson, Sindh Public Service Commission, is without lawful authority, coram non iudice, of no legal effect, and liable to be recalled, set aside and quashed.
- d. **Declare** that all decisions, approvals, recommendations, notifications, results, press releases, administrative orders and consequential actions undertaken by Respondent No. 9 exclusively in the purported capacity of Chairperson, Sindh Public Service Commission, are without lawful authority and liable to be declared void ab initio.
- e. **Restrain** Respondent No.8 permanently from acting as, functioning as, or holding himself out as Chairperson, Sindh Public Service Commission unless and until lawfully appointed strictly in accordance with the Act and Rules;
- f. **Declare** that the office of Chairperson, SPSC can only be filled through the statutory process prescribed by Section 4 of the Sindh Public Service Commission Act, 2022 read with the Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022, and that no concept of assumption of charge, acting charge, look-after

charge, current charge or officiating arrangement can be used to occupy the said office in derogation of the statute;

- g. **Direct** Respondents No. 1 to 5 to initiate and complete forthwith the appointment process for Chairperson, SPSC strictly in accordance with the 2022 Act and the 2022 Rules, within a period to be specified by this Honourable Court;*
- h. **Direct** Respondent No. 6 (Chairman, National Accountability Bureau) and Respondent No. 7 (Director General, Anti-Corruption Establishment, Sindh) to conduct an independent, transparent and lawful inquiry/investigation into the affairs of the Sindh Public Service Commission during the tenure of Respondent No. 8 and the subsequent assumption of charge by Respondent No. 9, including but not limited to allegations concerning abuse of authority, favouritism, illegal appointments, unlawful exercise of statutory powers, accumulation of assets beyond known sources of income, and any other cognizable offences disclosed from the record.*
- i. **Direct** Respondents No. 6 and 7 to submit a comprehensive report before this Honourable Court regarding the assets, financial affairs, and sources of income of Respondent No. 8 and Respondent No. 9 and to ascertain whether any assets, movable or immovable, have been acquired beyond known lawful means.*
- j. **Declare** that any actions taken by Respondent No.8 exclusively in purported exercise of the office of Chairperson, SPSC are open to challenge and shall be subject to further orders of this Honourable Court;*
- k. **Suspend** impugned Notification dated 14-05-2026 until final adjudication of the case.*
- l. **Suspend** Results/Press Releases dated 25-05-2026 until final adjudication of the case.*
- m. **Award** costs of this petition; and*
- n. **Grant** any other just, proper and equitable relief deemed fit and proper in the circumstances. The Supreme Court's public-appointment jurisprudence and the settled law of quo warranto support precisely this form of relief where the vice lies in incompetence of authority and non-observance of the statutory method."*

2. Mr. Abdul Qudoos Jatoy, learned counsel for the petitioner, contended that the office of Chairperson, Sindh Public Service Commission, is a distinct and independent statutory office created under the Sindh Public Service Commission Act, 2022, and its

occupancy is governed exclusively by the provisions of the said Act read with the Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022. He submitted that after the retirement of Respondent No. 8, the Chief Secretary, Government of Sindh, through Notification dated 14-05-2026, purported to direct Respondent No. 9, who was admittedly appointed only as a Member of the Commission, to assume charge of the office of Chairperson. Learned counsel argued that neither the Constitution of Pakistan, 1973, nor Act or the Rules recognize any concept of “*acting Chairperson*”, “*current charge*”, “*look-after charge*” or “*assumption of charge*”, and that the only lawful source of title to the office of Chairperson is appointment by the Governor on the advice of the Chief Minister after completion of the mandatory statutory process.

3. According to the learned counsel, the impugned notification amounts to a colourable exercise of power, is ultra vires the governing statute and has the effect of usurping a public office through an executive device unknown to law. He further submitted that Respondent No. 9, despite lacking lawful authority, has continued to perform the functions attached to the office of Chairperson and has exercised substantive statutory powers, including approval and announcement of recruitment results, thereby rendering such acts coram non iudice and liable to be declared void ab initio. Learned counsel maintained that the issue involved does not pertain to the comparative suitability of any individual, but rather concerns the legality of the occupation of a public office of constitutional significance and, therefore, squarely attracts the constitutional remedy in the nature of **quo warranto**. He lastly submitted that the impugned arrangement strikes at the independence and integrity of the **Sindh Public Service Commission**, undermines public confidence in merit-based recruitment and, unless corrected, would permit the executive to circumvent mandatory statutory requirements by resorting to extra-statutory arrangements and administrative expedients.

4. Notices were issued to the respondents and, pursuant thereto, learned counsel for Respondent No. 9 representing the Sindh Public Service Commission filed objections to the maintainability of the petition on 16.06.2026. **In the said reply, it was asserted that during the pendency of the proceedings, Respondent No. 9 had been duly appointed as Chairperson, Sindh Public Service Commission, in terms of Section 4(1) and 4(4) of the Sindh Public Service Commission Act, 2022 read with Rules 5 and 6 of the Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022, with the approval of the Governor of Sindh through Notification dated 12.06.2026, and that he had subsequently taken oath of office on 13.06.2026.** It was further contended that the instant petition was not maintainable under Article 199 of the Constitution as the petitioner had failed to establish himself as an aggrieved person and lacked locus standi. The respondent maintained that the petition, though couched as one in public interest, was founded upon vague and speculative allegations and did not identify any specific recruitment process or individual grievance. It was argued that the ad-interim order dated 10.06.2026 substantially granted the relief sought in the main petition and, therefore, was liable to be recalled. It was further asserted that rights had already accrued in favour of successful candidates and recommendations had been communicated prior to institution of the petition, thereby creating vested rights which could not be disturbed in collateral proceedings. The respondent also invoked the doctrines of locus poenitentiae, necessity and de facto authority, contending that administrative continuity permitted interim arrangements in the absence of any express statutory prohibition and that acts performed in good faith remained protected notwithstanding any alleged procedural irregularities. It was further pleaded that the petition suffered from non-joinder of necessary parties, as numerous successful candidates whose rights were likely to be affected had not been impleaded, and that any adverse order in their absence would offend the principles of audi alteram partem and

the guarantee of fair trial embodied in Article 10-A of the Constitution. Lastly, it was maintained that the challenge to Notification dated 14.05.2026 was misconceived, that no cause of action had accrued to the petitioner, that the sweeping relief sought regarding the invalidation of all results declared after 14.05.2026 was legally untenable, and that the petition constituted an unwarranted attempt to interfere in administrative and executive functions in the absence of any patent illegality. Consequently, dismissal of the petition and recall of the ad-interim order dated 10.06.2026 were prayed for.

5. After hearing the learned counsel for the petitioner, the learned counsel for respondents No.8 and 9, the learned Additional Advocate General with ample assistance provided by Assistant Advocate General, Sindh, and the officers of the Sindh Public Service Commission present before the Court. This Court vide order dated 16.06.2026 took notice of the fact that, pursuant to the earlier order dated 10.06.2026, Respondent No. 9, namely Mr. Rizwan Ahmed, along with the Secretary and Controller of Examinations, SPSC, had appeared before the Court. The Court further observed that despite specific directions, the Additional Chief Secretary, Sindh, had failed to appear and, consequently, a Show Cause Notice was directed to be issued to him, **but no one appeared on behalf of Chief Secretary, Sindh, though he was called upon through his Additional Secretary, on such state of affairs this Court has shown displeasure.** During the proceedings, the learned Additional Advocate General produced Notification dated 12.06.2026 whereby Respondent No. 9 had been appointed as Chairperson, SPSC, on a regular basis under Section 4 of the Sindh Public Service Commission Act, 2022 read with Rules 5 and 6 of the Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022. Upon tentative consideration of the controversy involved, this Court found that important constitutional and statutory questions arose concerning the legality of the appointment of the look-after Chairperson, the legal status of actions taken by the Commission

during the intervening period, and the statutory framework governing the functioning of the Commission in the absence of a duly appointed Chairperson. Accordingly, the Court framed the following questions for determination:

(i) Whether the appointment of the look-after/ caretaker Chairperson, made vide Notification dated 14.05.2026, was in conformity with Article 242(1B) of the Constitution of the Islamic Republic of Pakistan, 1973, and the relevant provisions of law governing the Commission?

(ii) In the event that the aforesaid appointment is found to be without lawful authority, what would be the legal status of the Commission during the intervening period from 17.05.2026 to 13.06.2026 (after taking oath of Chairperson under the Constitution)?

(iii) Whether examinations, tests, interviews, recommendations, declarations, or announcements of results made during the aforesaid intervening period are liable to be declared without lawful authority and consequently void ab initio?

(iv) Whether any Rule, Regulation, Policy, Standing Orders, Notifications, Administrative Instructions, or other statutory instruments are in force within the Sindh Public Service Commission governing the distribution, delegation, and discharge of powers, functions, and duties amongst the Chairperson, Secretary, Controller, Deputy Controller, and other officers of the Commission? If so, the respondents shall place the same on record.

(v) Whether the internal and external business of the Commission is regulated by any statutory Rules, Regulations, Policies, or administrative framework, and if so, what is the distinction between the powers exercisable under such Rules and those exercisable under the Regulations governing the affairs of the Commission?

(vi) Whether any Rule, Regulation, or other statutory provisions authorize the Secretary, Controller, Deputy Controller, or any other officer of the Commission to independently perform, supervise, approve, or authorize any recruitment-related activity, examination, interview, recommendation, declaration, or announcement of results in the absence of a duly appointed Chairperson?

(vii) Whether there exists any provision in law enabling the Commission to continue its statutory and constitutional functions during a vacancy in the office of Chairperson, and if so, the respondents shall identify the relevant provision(s) and place the supporting record before the Court as there is no provision in the

Constitution of Pakistan with regard to any acting Chairperson of SPSC; however, there is certain Articles of the Constitution reflecting status of the acting Chairperson of the constitutional institution / assignment/ post.

6. Before adverting to the framed questions, it may be observed that the objection of locus standi cannot detain the Court for long. Where the source of title to a public office is impugned, the matter falls within the recognised field of **quo warranto**, and the strict requirement of personal aggrievement is materially relaxed. The Supreme Court has held that, for a writ in the nature of quo warranto, any person may bring into question the authority by which a public office is held, because the real concern is not a private right but the legality of occupation of a public office. The same constitutional current runs through the public-law holdings in *Hafiz Hamdullah v. Saifullah Khan (PLD 2007 SC 52)* and *Benazir Bhutto v. Federation of Pakistan (PLD 1988 SC 416)*.

7. The first question is whether the appointment of the so-called look-after/caretaker Chairperson, made vide notification dated 14.05.2026, was in conformity with Article 242(1B) of the Constitution of Islamic Republic of Pakistan and the governing law. The answer, in our respectful view, is in the negative.

8. **Article 242(1B) of the Constitution expressly provides that the Chairperson of a Provincial Public Service Commission shall be appointed by the Governor on the advice of the Chief Minister.** Article 242(2) further provides that the Commission shall perform such functions as may be prescribed by law. Thus, the Constitution itself constitutionalizes both the office and the mode of appointment. It does not leave the source of title to executive improvisation.

9. **The Sindh Public Service Commission Act, 2022 is wholly in line with the constitutional command. Section 3 establishes the Sindh Public Service Commission and provides**

that it shall consist of a Chairperson and such number of Members as the Chief Minister may determine. Section 4(1) states that the Governor, on the advice of the Chief Minister, shall appoint the Chairperson, while the Chief Minister shall appoint the Members. Section 4(4) prescribes tenure, and its proviso states only that nothing therein debars a Member from becoming a Chairperson during the pendency of his term in case the office of Chairperson falls vacant. That proviso cannot be read as creating an automatic or interim assumption of office; rather, it merely preserves eligibility for appointment. Section 5 then mandates that, before entering upon office, the Chairperson shall take oath in the prescribed form before the Governor.

10. The Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022 reinforce the same position. Rule 3 requires appointment in accordance with section 4 of the Act; Rule 5 creates a Permanent High Powered Committee; and Rule 6 requires that the Committee recommend a panel of at least three persons, whereafter the Chief Minister may interview the recommended candidates and recommend the appropriate person as Chairperson to the Governor, and only upon approval is the appointment to be notified.

11. **The impugned notification dated 14.05.2026, issued through the Chief Secretary, bypassed every one of these mandatory constitutional and statutory steps.** It did not emanate from the Governor on the advice of the Chief Minister after completion of the prescribed process. It was not preceded by the recommendation of the High Powered Committee. It did not result in a lawful appointment. Nor could it substitute the mandatory oath contemplated by section 5 of the Act. The expression “assume charge” as employed in the notification is, therefore, no source of legal authority to occupy the constitutional office of Chairperson.

It is also significant that the Constitution expressly creates “acting” arrangements where the framers intend to do so. By way of illustration, **the Constitution separately provides for an Acting President of Pakistan and for acting office-holders in other constitutional settings, including an Acting Chief Election Commissioner under Article 217 and Acting Chief Justices under the constitutional scheme relating to the superior courts.** The presence of such express provisions elsewhere, and their complete absence in Article 242 and in the governing SPSC statute and rules, is a strong indicator that no analogous “acting Chairperson”, “look-after charge”, “current charge” or “caretaker Chairperson” is recognised for the SPSC. Where the Constitution or statute says a thing shall be done in a particular manner, it must be done in that manner alone.

12. The independence of constitutional institutions is not preserved by ad hoc executive arrangements but by fidelity to the method prescribed by the Constitution and by law. The jurisprudence of the Supreme Court has repeatedly underscored that constitutional institutions must be insulated from informal or extra-legal executive control, and that appointments touching institutional independence must adhere to the constitutionally prescribed path. That principle is reflected in *Al-Jehad Trust v. Federation of Pakistan (PLD 1996 SC 324)* and in *Sindh High Court Bar Association v. Federation of Pakistan (PLD 2009 SC 879)*.

13. We therefore hold that the notification dated 14.05.2026, whereby Respondent No. 9 was directed to assume charge as Chairperson, SPSC, was without lawful authority, contrary to Article 242(1B) of the Constitution, ultra vires the Sindh Public Service Commission Act, 2022 and contrary to the Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022. It conferred no de jure title to the office of Chairperson.

14. At the same time, since Respondent No. 9 has subsequently been appointed on a regular basis vide notification dated 12.06.2026 and took oath on 13.06.2026, his present incumbency is not under challenge before us on the footing of the impugned look-after arrangement; the illegality found herein attaches to the interregnum arrangement alone. The matter, therefore, is not rendered infructuous, because the legal status of the impugned notification and of actions taken during that interregnum still falls for declaration.

15. The second question is: if the aforesaid arrangement is held without lawful authority, what was the legal status of the Commission during the intervening period from 17.05.2026 to 13.06.2026?

The Commission, as a statutory constitutional institution, did not cease to exist merely because the office of Chairperson fell vacant. Section 3 of the Act establishes the Commission itself. Thus, the institution survived; its secretariat, records, branches and accumulated proceedings also survived. But the existence of the institution is one thing, and the lawful exercise of powers specifically reserved to the Chairperson or to the Commission acting through a legally constituted decision-making chain is another.

16. The material placed on record demonstrates that the functioning of SPSC is not left to an undefined administrative field. The statutory framework consists of the Act of 2022, the Appointment Rules of 2022, the Functions Rules of 2022, and the Recruitment Management Regulations, 2023. In addition, the respondents rely upon an **“internal Compendium”** and related internal arrangements. The statutory instruments and the RMR show a structured division between policy and final approval at the level of the Chairperson / Commission on the one hand and ministerial, preparatory, supervisory and channel-of-business functions at the level of the secretariat and field officers on the other.

17. Thus, during the interregnum, the Commission remained in existence as an institution, but it could not lawfully be treated as having a duly appointed Chairperson by reason of an extra-statutory order of “assumption of charge”. The proper legal characterisation is that the institution continued, routine ministerial and preservatory work could continue, but any act that, under the statute or governing framework, required a lawful Chairperson’s approval, constitution, nomination, leadership or final authorisation was exposed to legal defect.

18. This conclusion is consistent with constitutional method. It preserves the continuity of the institution without validating an office-holder unknown to law. It also accords with remedial restraint in Pakistani public law, where the Court may declare an act unconstitutional while calibrating the consequences in light of institutional continuity and public interest, as seen in *Federation of Pakistan v. Haji Muhammad Saifullah Khan (PLD 1989 SC 166)*.

19. We would add, in explicit terms, that neither the Constitution of Pakistan, 1973, nor the Sindh Public Service Commission Act, 2022, nor the Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022 recognises any notion of an “**acting Chairperson**”, “**look-after charge**”, “**current charge**”, or “**caretaker Chairperson**” of the SPSC. In the spirit of Article 242, constitutional continuity must be maintained through timely lawful appointments, not through administrative improvisation. Once the competent authorities are aware that a vacancy in the office of Chairperson is imminent, the Governor and the Chief Minister are expected, indeed constitutionally obliged in substance, to set the statutory appointment process in motion sufficiently in advance so that the office does not fall vacant at all. Constitutional institutions are to be preserved by constitutional conventions of responsibility and foresight, not by resort to devices foreign to the law.

20. The third question concerns the legal status of examinations, tests, interviews, recommendations, declarations and results made during the intervening period, including the twelve (12) results already kept in abeyance by this Court. The record shows that the present challenge was not directed to the intrinsic conduct of most of the examinations themselves. The premise advanced by the petitioner is that Respondent No. 9 lacked lawful authority to function as Chairperson when certain results and press releases were approved and announced. **The respondents, on the other hand, pleaded de facto authority, accrued rights, vested expectations of candidates and the risk of administrative disruption.** The objections further refer to the ad interim order dated 10.06.2026.

21. The Recruitment Management Regulations, 2023 are of central importance here. They show that draft advertisements are to be approved by the Chairperson through the Secretary; Chairperson approves examiners and assessors; the Examination Branch compiles and tabulates marks and places the draft result/press release before the Chairperson for final approval; confidentiality of results is to be maintained until approved by the Chairperson; and recommendations to Government are submitted by the Secretary only with the approval of the Chairperson. These provisions unmistakably reserve final approval to the office of Chairperson.

22. Accordingly, if the matter were to be examined in the abstract and in isolation, actions taken exclusively in purported exercise of the office of Chairperson during a period when no lawful Chairperson existed would indeed suffer from an initial legal infirmity. However, that is not the end of the matter. The Court must also consider the **doctrine of de facto authority** and the remedial consequences of unsettling completed or near-completed public processes.

23. Pakistani jurisprudence recognises that, in appropriate cases, the acts of a **de facto office-holder** may be preserved to

protect the public and third parties and to avoid intolerable disorder. The clearest illustration available to us is the **PCO Judges case, Constitution Petitions Nos. 8 and 9 of 2009**, judgment dated 31.07.2009, where the Supreme Court held the appointment of office-holders under an unconstitutional arrangement to be invalid, yet protected ordinary administrative and financial acts performed in the de facto discharge of office, while withholding protection from appointments and reappointments to superior judicial offices founded upon that invalid authority. The same judgment also employed a calibrated remedial approach in protecting intervening matters so that state institutions would not collapse into chaos.

24. **That doctrine must, however, be applied with caution. It cannot be used to create title to office where none exists. It is a doctrine of consequences, not a doctrine of source.** We therefore reject the respondents' argument insofar as it suggests that administrative necessity could itself validate the impugned notification dated 14.05.2026. It could not. Yet the doctrine remains relevant when examining whether all acts done during that period must now be obliterated regardless of the scale of public prejudice that would follow.

25. On the factual premise supplied by the petitioner, and accepted for purposes of disposal, twelve (12) results were announced during the interregnum, and this Court had already kept such results in abeyance by interim order dated 10.06.2026. On the present record, we are also directed to note that, except for the CCE-2025 Screening Test, all the examinations had already been conducted during the tenure of the previous Chairperson and are presumed to have been regularly conducted in accordance with law. Even the CCE-2025 process, at this stage, involved only a screening test, and a large number of candidates have already qualified. In such a case, to visit the entire body of candidates with the full consequence of the executive's unlawful attempt to fill a constitutional office by an extra-statutory device would produce manifest disproportionality.

26. Further, Article 129 illustration (e) of the Qanun-e-Shahadat Order, 1984 embodies the presumption that judicial and official acts have been regularly performed, unless rebutted by cogent material. On the present record, there is no material establishing fraud in the conduct of the underlying examinations as such; the defect identified is in the legal status of the approving authority during a narrow interregnum. The distinction is crucial. Where the process was substantially completed under a lawful Chairperson and only the formal declaration or publication fell in the impugned interregnum, the balance tilts decisively against wholesale nullification.

27. We, therefore, answer the third question in qualified terms: the actions taken during the interregnum were not immune from challenge merely because they were performed under the colour of office; acts requiring final approval of a lawful Chairperson were tainted by legal defect. Nevertheless, applying the **doctrine of de facto authority**, the **balance of convenience**, **public interest**, **proportionality**, the **presumption of regularity**, and the **imperative to avoid administrative chaos**, the twelve (12) results already kept in abeyance shall **not** now be declared void ab initio in their operative effect. The interim restraint is liable to be ***vacated*** and the implementation of the results may proceed.

28. The fourth question asks whether any rule, regulation, policy, standing order, notification, administrative instruction or other statutory instrument governs the distribution, delegation and discharge of powers amongst the Chairperson, Secretary, Controller, Deputy Controller and other officers. The answer is that such material does exist on the record, though not all of it stands on the same legal footing.

29. At the apex is the Constitution, followed by the Sindh Public Service Commission Act, 2022. Under section 12 of that Act,

rules may be made. In exercise of that power, the Government notified the Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022 and the Sindh Public Service Commission (Functions) Rules, 2022. The SPSC website also places on record the Recruitment Management Regulations, 2023, including amendments noted therein as having been published in the Sindh Government Gazette. These are the principal formal instruments visible on the present record.

30. The Functions Rules, 2022 provide that the Commission shall conduct tests for initial recruitment to specified posts; hold language and departmental examinations; and, materially, that the Chairperson may constitute committees in relation to the filling of posts, comprising at least two persons, one of whom shall represent the concerned department. They also regulate submission and acceptance of the Commission's advice.

31. The Recruitment Management Regulations then elaborate the internal mechanics of recruitment. From these regulations, the following broad distribution of powers emerges.

32. First, the **Chairperson** occupies the policy-making and final-approval position. The Chairperson approves advertisements through the Secretary, approves examiners and assessors, nominates or heads interview committees, approves advisors / experts, exercises final approval over draft results and press releases, and his approval is necessary before recommendations are sent to Government. The Chairperson also constitutes appellate committees under the RMR.

33. Second, the **Commission / Members** perform collegiate and adjudicatory functions in recruitment. Committees for interviews are to be comprised of one or more Members; BPS-17 committees may consist of one or two Members at the discretion of the Chairperson; CCE interview committees are to be headed by the Chairperson and comprise no fewer than three Members; and for posts in BPS-18 and above, multi-member committees are prescribed. The RMR also

recognises a **Member-in-Charge** for scrutiny matters, who is the final authority for orders on deficient applications, but even there the regulations specifically prevent delegation to subordinate staff, and only a limited additional / acting charge of *Member-in-Charge* may be given by the Chairperson to another Member in the event of temporary unavailability. This carefully drafted provision is telling: even for a subsidiary internal function, the regulation expressly provides the limited acting arrangement; no similar provision exists for the office of Chairperson itself.

34. Third, the **Secretary** emerges from the record as the principal channel of business and the chief coordinating officer of the secretariat, but not as a substitute decision-maker for the Chairperson. Requisitions are received in the office of the Secretary; the Secretary forwards them for scrutiny; approved advertisements are published through the Secretary; candidate correspondence is addressed to the Secretary; replies are cleared by the Chairperson and then signed by the Secretary; and recommendations to Government are transmitted by the Secretary only with the approval of the Chairperson. The Secretary is thus an indispensable administrative officer, but his functions are channel, custody, coordination, transmission and implementation, not assumption of the Chairperson's constitutional office or final statutory approval in its place.

35. Fourth, the **Controller of Examinations** and the examination wing have extensive technical and supervisory responsibilities, yet they too stop short of final approval. The Controller seeks expert panels, oversees assessment protocols, ensures confidentiality, retrieves answer books, computes marks, and supervises the preparation of results. But the draft result / press release must still be placed before the Chairperson for final approval before publication. Thus, the Controller's role is operational, specialised and critical, but not constitutive of final authority. The same is true of the **Assistant Controller/Deputy Controller /**

Additional Controller, who are shown in the RMR as supervisory officers in the assessment process. Their functions are secretarial-supervisory within the examination branch; none is shown to possess independent statutory authority to approve, declare or validate results in the absence of a duly appointed Chairperson.

36. Fifth, subordinate recruitment officers such as **Deputy Director Recruitment, Assistant Director, Branch / Section In-Charge**, and similar officers have scrutiny and processing roles. They examine applications, classify them, prepare synopses, obtain approvals on note sheets, and assist the Member-in-Charge or committees. But the regulations repeatedly show that such officers are part of a chain of preparation and facilitation; the chain culminates in Member / Chairperson approval, not in an autonomous power of final decision in those officers themselves.

37. As to the “**Compendium**” and internal instructions relied upon by the respondents, we have examined them for the limited purpose for which they may legitimately be used, namely administrative guidance. However, such internal compendia, manuals, or standing arrangements do not enjoy the same legal sanctity as statutory rules validly framed under the Act and published in the official Gazette. Internal instructions may organise office practice; they cannot create a constitutional office, amend the statute, or dilute mandatory requirements of appointment, oath and final approval.

38. To the extent that the Compendium is inconsistent with the Act, 2022, the Rules, or validly framed Regulations, it can only be treated as administrative guidance. However, to the extent it is relied upon to justify an extra-statutory continuation or occupancy of the office of Chairperson, it carries no legal sanctity and provides no assistance in law.

38. The fifth question concerns whether the internal and external business of the Commission is regulated by statutory rules,

regulations, policies or administrative framework, and what distinction exists between powers exercisable under rules and those under regulations. The answer is that there is indeed a layered framework, but its legal hierarchy must be clearly understood.

39. The **Act** provides the constitutional-statute foundation: it establishes the Commission, prescribes its composition, mode of appointment, oath, tenure, removal and functions. The **Rules** framed under section 12 of the Act, specifically the Appointment Rules, 2022 and the Functions Rules, 2022, occupy the field of appointments, procedure for selection of Chairperson and Members, and the general functions of the Commission in relation to recruitment and advice to Government. These rules are delegated legislation and derive their force from the statute.

40. The **Regulations**, as they appear from the Recruitment Management Regulations, 2023, are more operational in character. They regulate the mechanics of requisitions, advertisements, submission and scrutiny of applications, tests, examinations, interviews, result processing, confidentiality, recommendations, representations and appeals. In that sense, the rules are framework norms of institutional structure and function, while the regulations are process norms governing how the recruitment machinery is to operate on the ground.

41. The **administrative framework**, including compendia, manuals and standing office arrangements, operates at a still lower level. Such material may fill in the details of office workflow, file movement, custodian responsibilities, custody of papers, schedules and internal discipline, but cannot override the Act, the Rules or duly framed Regulations. The distinction is therefore not merely semantic; it is constitutional. Policy and final institutional decision-making reside with the lawful holders of statutory office, especially the Chairperson and the Commission. Administrative officers execute,

coordinate, supervise and transmit within the boundaries that the higher instruments draw.

42. This distinction is decisive in the present case. The respondents' reliance on internal administrative arrangements cannot validate what the Constitution and statute do not recognize. It follows that **the Province of Sindh and the Commission must take steps to reduce the ambiguity that has surfaced in the present litigation. The Compendium and other internal arrangements, insofar as they are thought necessary for the regular conduct of business, ought to be translated into properly framed and gazetted rules or regulations through the competent law-making process.** Transparency, certainty, accessibility and public confidence in a constitutional recruiting institution depend upon rules being known, lawful and publicly ascertainable, not embedded in internal compilations of uncertain status.

43. The sixth question is whether any rule, regulation or statutory provision authorises the Secretary, Controller, Deputy Controller or any other officer to independently perform, supervise, approve or authorise recruitment-related activity, examination, interview, recommendation, declaration or announcement of results in the absence of a duly appointed Chairperson. On the present record, **the answer is plainly in the negative.**

44. As already noticed, the Secretary may receive requisitions, forward them, publish approved advertisements, conduct correspondence, and transmit recommendations with the approval of the Chairperson. The Controller and deputy / assistant controllers supervise examination processes, assessment secrecy, tabulation and preparation of results. Branch officers and recruitment officers scrutinise applications and prepare cases. Members sit on committees and may decide scrutiny issues as Member-in-Charge. But the recurring design of the framework is unmistakable: preparatory and

supervisory powers are distributed downward; final approval and institutional authority remain vested upward.

45. The Functions Rules, 2022 explicitly state that the Chairperson may constitute committees relating to the filling of posts. The RMR provide that the Chairperson nominates centre in-charges where necessary, appoints supervisors on the Secretary's recommendation, approves assessors, approves advisors/experts, heads or nominates chairmen of interview committees, approves final results, and approves the submission of recommendations. The text leaves no gap through which a Secretary or Controller may independently step into the legal shoes of the Chairperson.

46. The respondents were unable to point to any statutory provision authorising a subordinate officer to declare results or give final approval in substitution of a vacant Chairperson's office. Nor have we found such a provision. Even where the RMR permit emergency or additional arrangement, they do so expressly, and only in relation to the office of Member-in-Charge, not Chairperson. That deliberate drafting choice is impossible to ignore.

47. We therefore hold that, in the absence of a duly appointed Chairperson, the Secretary, Controller of Examinations, Deputy Controller, Assistant/Additional Controllers, Deputy Director Recruitment, Assistant Director, Branch In-Charge or any other subordinate officer may continue only with such ministerial, custodial, preparatory and supervisory tasks as fall within their ordinary sphere, but none of them may independently exercise final statutory powers reserved to the Chairperson or to the Commission. Any contrary practice is extra-statutory and impermissible.

48. The seventh question asks whether any provision in law enables the Commission to continue its statutory and constitutional functions during a vacancy in the office of Chairperson. The correct answer is nuanced.

49. There is no provision in the Constitution, in the Act of 2022, or in the Appointment Rules of 2022 that creates an “acting Chairperson” or authorizes a “look-after”, “current charge” or “caretaker” Chairperson. To that extent, the answer is no. The vacancy must be filled only through the constitutional and statutory mode of appointment under Article 242(1B), section 4 of the Act and the Rules of 2022, followed by oath under section 5.

50. However, the Commission as an institution established under section 3 does not stand dissolved by the vacancy. Its corporate and statutory existence continues. What is constrained is the ability lawfully to exercise those powers which the framework reserves to a duly appointed Chairperson or to the Commission acting through a lawfully constituted decision-making structure. This is why the executive must never permit the office to become vacant in the first place.

51. In constitutional design, omission is often as meaningful as expression. The Constitution specifically creates acting arrangements in other contexts, including Article 217 relating to the Acting Chief Election Commissioner and those provisions which recognise acting Chief Justices. No corresponding arrangement exists for the SPSC Chairperson. The necessary inference is that the framers expected continuity to be secured by timely substantive appointment, not by executive stop-gap orders.

52. The Court is therefore constrained to observe, in clear terms, that the Province of Sindh, the Chief Minister, the Governor and the concerned administrative department must institutionalise advance planning for appointments to constitutional offices. Where the tenure of a Chairperson is known to be expiring, the appointment process should be initiated sufficiently early, preferably not later than sixty days before the anticipated vacancy, so that the recommendation of the High Powered Committee, consideration by the Chief Minister, approval of the Governor, notification and oath all occur without a

constitutional vacuum. That is the only course consistent with the spirit of Article 242 and with the independence of public service commissions as constitutional recruiting institutions.

53. For the foregoing reasons, the petition is disposed of in the following terms.

- I. The notification dated 14.05.2026, issued through the office of the Chief Secretary, Government of Sindh, whereby Respondent No. 9 was directed to assume charge of the office of Chairperson, Sindh Public Service Commission, is declared to have been without lawful authority and of no legal effect. It is further declared that neither the Constitution of the Islamic Republic of Pakistan, 1973, nor the Sindh Public Service Commission Act, 2022, nor the Sindh Public Service Commission (Appointment of Chairperson and Members) Rules, 2022 recognise any concept of “acting Chairperson”, “look-after charge”, “current charge”, or “caretaker Chairperson” of SPSC.
- II. It is also declared that the subsequent regular appointment of Respondent No. 9 as Chairperson, SPSC, vide notification dated 12.06.2026, followed by oath on 13.06.2026, is a distinct and lawful source of title to office, and his present incumbency is to be treated accordingly. The illegality identified in this judgment pertains to the prior interregnum arrangement and the impugned notification dated 14.05.2026.
- III. We further hold that, during the period from 17.05.2026 to 13.06.2026, the Commission as an institution continued to exist, but no lawfully appointed Chairperson existed in office. During that period, subordinate and secretariat officers could at best perform routine ministerial, preservatory and preparatory functions within their lawful sphere. They could not, by themselves or under colour of the impugned notification, exercise final powers reserved

by law to a duly appointed Chairperson or to the Commission acting through a lawfully constituted process.

- IV. As regards the twelve (12) results announced during the interregnum, we note that this Court had already kept them in abeyance by interim order dated 10.06.2026. However, applying the **doctrine of de facto authority**, the **balance of convenience**, **public interest**, **proportionality**, **avoidance of administrative chaos**, and the **presumption of regularity of official acts**, especially when the examinations, save the CCE-2025 screening test, had already been conducted during the tenure of the previous Chairperson, and even the CCE-2025 process had only reached the screening stage, we are not persuaded that the interests of justice would be served by nullifying the results and punishing thousands of candidates for an illegality attributable to the executive's failure to make a timely lawful appointment. Accordingly, the interim restraint is vacated and the implementation of the results is permitted.
- V. **Nonetheless, the respondents are put on strict notice that this relief is granted because of the peculiar facts, the limited nature of the defect on the present record, the public interest and the need to avoid manifestly disproportionate hardship. This judgment must not be understood as approving the extra-statutory arrangement or as condoning any future attempt to fill a constitutional office through executive convenience.** Constitutional institutions must function according to law, not according to administrative expediency.
- VI. The Province of Sindh, through the Services, General Administration and Coordination Department, is directed to place before the competent authority, within ninety days, a concrete proposal for framing and notifying proper rules

and / or regulations governing the internal distribution of powers, the channel of business, the scope of ministerial and supervisory functions of the Secretary, Controller of Examinations, Deputy / Assistant / Additional Controllers, recruitment officers and other staff, and the matters presently left to internal compendia and office arrangements. The object shall be to convert the Compendium and similar internal instruments into a transparent, accessible and gazetted legal framework, to the extent permissible under the Act.

- VII. The competent authority(ies), in view of Article 242 (1B) of the Constitution of Islamic Republic of Pakistan, 1973, are further required that, whenever the office of Chairperson is likely to fall vacant by efflux of time or otherwise, the process prescribed by section 4 of the Act and the Rules of 2022 shall be initiated well in advance, preferably not later than sixty days before the anticipated vacancy, so that the office does not remain vacant and no occasion arises for any extra-statutory makeshift arrangement.
- VIII. It is also directed that, until the contemplated rules / regulations are properly framed and notified, the Commission shall strictly adhere to the Act, the Rules and the duly applicable Regulations presently in force. In particular, no final result, recommendation, or recruitment decision shall be published or communicated unless approved by the authority expressly recognized by law.
- IX. The wider prayers seeking roving or omnibus inquiries by NAB or the Anti-Corruption Establishment, and declarations in respect of all acts of Respondent No. 9 irrespective of subject and context, are declined in these proceedings for want of focused pleadings, evidentiary foundation and necessary parties. This petition has been decided on the precise constitutional and statutory questions framed by this Court, and no more.

54. The Sindh Public Service Commission (SPSC) is a constitutional body entrusted with the significant responsibility of selecting and recommending suitable candidates for appointment to public services. The candidates recommended by the Commission eventually become part of the higher bureaucracy and occupy key positions in public institutions; therefore, any perceived irregularity in the recruitment process may adversely affect the efficiency, transparency, and credibility of public institutions.

We, therefore, expect that, in the future, the SPSC shall continue to uphold the highest standards of merit, transparency, and integrity, and shall nurture a competent and talented cadre of bureaucracy not only for the Province of Sindh but for the entire country. The officers selected through this process, upon attaining higher positions through their professional growth and promotions, shall contribute towards the strengthening of public institutions and governance across the country. The day is not far when the nation shall take pride in the achievements, professionalism, and contributions of the SPSC.

55. The petition stands disposed of in the above terms. Pending applications, if any, also stand disposed of. No order as to costs.

JUDGE

JUDGE

APPROVED FOR REPORTING