

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

**Constitution Petition No.D-635 of 2025**

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Date	Order with signature(s) of Judge(s).
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**Before;**  
***Mr. Justice Riazat Ali Sahar;***  
***Mr. Justice Ali Haider 'Ada'.***

Petitioners : 1. Kashif Hussain s/o Ashiq Hussain  
2. Farhan Ahmed s/o Hidayatullah,  
3. Fazal Rehman s/o Abdul Rehman ,  
4. Ghulam Muhammad s/o Ghulam Sarwar, *through* Mr. Hidayatullah Memon, Advocate.

Respondents : Province of Sindh and others through Mr. Saeed Akbar Siyal, Assistant Advocate General Sindh along with Mr. Allah Bux Soomro, Director Elementary/ Secondary, Higher Secondary, Education Larkana Region.

*Date of Hearing* : 23.06.2026.  
*Date of Order* : 29.06.2026.

**ORDER**

**Ali Haider 'Ada', J.-** Through the instant constitutional petition, the petitioners have assailed the action of the respondents in not issuing offer/appointment letters in their favour despite their participation in the recruitment process. The principal grievance of the petitioners is that they secured the requisite marks prescribed under the Recruitment Policy, 2021 and, therefore, were entitled to consideration for appointment. According to the petitioners, the refusal of the respondents to issue appointment orders in their favour is arbitrary, discriminatory and contrary to the spirit of the Recruitment Policy, 2021.

2. In response, respondent No.3, namely the District Education Officer (Elementary, Secondary and Higher

Secondary), Larkana, filed para-wise comments asserting that no legal or vested right of the petitioners had been infringed. It was specifically contended that the last selected candidates had secured higher marks than the petitioners and, therefore, the petitioners could not be accommodated within the available vacancies. It was further stated that the District Selection Committee had conducted the recruitment process strictly in accordance with law after proper scrutiny and evaluation of all eligible candidates, whereupon the petitioners failed to qualify on merit.

3. The Secretary, School Education and Literacy Department, Government of Sindh, respondent No.1, adopted the comments submitted by the subordinate authorities. Likewise, the Director School Education (Elementary, Secondary and Higher Secondary), Region Larkana, also filed para-wise comments maintaining that the entire recruitment process had been conducted fairly, transparently and strictly in accordance with the Recruitment Policy, 2021 governing teaching and non-teaching staff.

4. The petitioners thereafter filed a rejoinder controverting the assertions made by the respondents. Learned counsel for the petitioners contended that the petitioners had applied for the posts of Primary School Teacher (PST) and Junior Elementary School Teacher (JEST), which were advertised under the Recruitment Policy, 2021. According to him, the policy prescribed a qualifying threshold of 40% marks and the petitioners had admittedly secured more than the said benchmark. It was, therefore, argued that the respondents acted unlawfully in denying appointment to the petitioners despite their having secured the prescribed qualifying marks.

5. Conversely, learned Assistant Advocate General, appearing on behalf of the respondents, submitted that the stance taken by the petitioners is misconceived and contrary to the actual position reflected from the record. He argued that the names of the petitioners did not appear in the final merit list recommended by the District Recruitment Committee, as candidates securing higher marks were available and selected against the advertised vacancies. He further submitted that if the claim of the petitioners were accepted, the rights of candidates who had secured superior merit would be adversely affected, which would run contrary to the very object and spirit of merit-based recruitment envisaged under the Recruitment Policy, 2021.

6. Heard learned counsel for the parties and perused the material available on record.

7. The controversy essentially revolves around the claim of the petitioners that having secured more than the minimum qualifying marks prescribed under the Recruitment Policy, 2021, they were entitled to appointment. The respondents, however, have taken the categorical stance that, they could not be selected because candidates possessing higher merit occupied the available vacancies and, therefore, the names of the petitioners did not find place in the final merit list.

8. At the outset, it may be observed that formulation of recruitment policies and determination of criteria for appointments ordinarily fall within the exclusive domain of the Executive. Such matters involve policy considerations and administrative expertise, and the constitutional jurisdiction of this Court is not ordinarily attracted unless the policy or its implementation is shown to be arbitrary, discriminatory, mala fide or violative of any statutory or constitutional provision. In this regard, reliance may be

placed upon the judgment of the Hon'ble Supreme Court of Pakistan in ***Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and others v. Latif Ullah Khan (2021 PLC (C.S.) 1120)***, wherein it was held that any preference envisaged under a recruitment policy can only be extended where candidates stand on equal footing in terms of merit and that merit remains the governing consideration in matters of public employment. Further guidance may be drawn from the judgment of the Hon'ble Supreme Court in ***Secretary Finance and others v. Ghulam Safdar (2005 SCMR 534)***, wherein it was authoritatively held that

*10. Be that as it may, it is difficult to sustain the prayer of the respondents since mere selection in written examination and interview test would not, by itself, vest candidates with a Fundamental Right for enforcement as such in the exercise of Constitutional jurisdiction of the High Court. Admittedly, the appellants had not issued any offer of appointment to the respondents and their appointment was subject to clearance by the Establishment Division under the Centralised System of Recruitment till it was discontinued in November, 1996, which again coincided with the imposition of ban on fresh recruitments, which could not be safely ignored by the appellants. Thus, the High Court was not right in overlooking this aspect of the case and issuing a writ of mandamus of the nature prayed for.*

9. Furthermore, it is a settled principle of law that policy matters primarily fall within the domain of the Executive and the Courts, while exercising constitutional jurisdiction, ordinarily refrain from interfering in such decisions unless the same are shown to be arbitrary, mala fide, discriminatory, contrary to law, or suffering from procedural irregularity. Judicial review is concerned with the decision-making process and not with the merits of the decision itself. Guidance in this regard may be drawn from the judgment of the Hon'ble Supreme Court of Pakistan in

***Abdul Hameed and others v. Water and Power Development Authority through Chairman, Lahore and others (2021 SCMR 1230)***, wherein it was held that Courts may not interfere in policy decisions of the Executive unless such decisions are demonstrated to be arbitrary, mala fide, contrary to law, or wholly unreasonable.

10. In the present case, a careful examination of the record reveals that the candidates who were ultimately selected and offered appointments had secured higher marks than the petitioners. The petitioners have failed to point out any instance where a candidate possessing lesser merit was appointed in preference to them. Likewise, no material has been brought on record to establish that the recruitment process suffered from mala fides, arbitrariness, discrimination, or violation of the Recruitment Policy, 2021.

11. For the foregoing reasons, this Court finds that the petitioners have failed to make out any case for intervention. Consequently, the instant petition, being devoid of merit, is hereby dismissed.

**JUDGE**

**JUDGE**

*Irshad Ali M/Steno*