

IN HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No. D-345 of 2012

[Kaleem-u-lah v. Executive District Officer & Others]

Before:

Mr. Justice Arbab Ali Hakro

Mr. Justice Riazat Ali Sahar

Petitioner : Kaleem-u-lah Mahar through Mr. Ahsan Gul Dahri, Advocate.

Respondents : Through Mr. Muhammad Ismail Bhutto, Additional Advocate General Sindh.

Date of Hearing : **16.05.2025**

Date of Decision : **16.05.2025**

JUDGMENT

RIAZAT ALI SAHAR.J., Through this petition, the petitioner is seeking following reliefs:-

- (A). *That this Honourable court may be pleased to direct the respondent No.1 to issue offer order and appointment order to the petitioner.*
- (B). *That this Honourable Court may be pleased to direct the respondent No.3 to take legal action against the respondent No.1 & 2 they are not performing their duties honestly.*
- (C). *That this Honourable Court may be pleased to declare that the discriminatory act of the respondents are not issuing appointment letter to the petitioner is illegal, bad, void, ab-initio, malafide, inoperative and without any lawful authority.*
- (D). *That this Honourable Court may be pleased to direct the respondents No.1-3 to take all further steps, required to be taken, for the appointment of the petitioner without any further delay.*

(E). To award any other relief which this Honourable High Court deems fit and proper in the circumstances of the case, may be granted to the petitioners in the interest of justice.

2. In the instant petition, the petitioner states that Government Boys Primary School Goth Varyam Ji (Johi) was sanctioned in 1954 and its building was constructed in 2007. On 01.12.2011, the District Officer (Education), Nawabshah/Shahheed Benazirabad (Respondent No.2), published an advertisement for vacant posts in the Education Department, directing candidates to submit documents by 17.12.2011, with interview schedules also announced. The petitioner appeared for the written test on 26.12.2011 before the Executive District Officer (Education), Shahheed Benazirabad (Respondent No.1). His name appeared at S. No. 611 in the test list and S. No. 147 for the interview. However, the result was never announced. The petitioner states that this was done with *mala fide* intent, as Respondent No.1 seeks to appoint another candidate from a different village, allegedly in exchange for a bribe, despite the petitioner being a local resident. Earlier, on 30.10.2007, the Executive District Officer (Education) Nawabshah issued a letter confirming that the school building had been sanctioned under a World Bank scheme, with land provided by Mr. Nasarullah Mallah. Verification of ownership was conducted through the Mukhtiarkar (Revenue), Nawabshah. On 07.11.2007, the petitioner received an NOC from the village community recommending his appointment as Watchman/Chowkidar for the said school. The petitioner further states that he is one among many disadvantaged citizens deprived of fundamental and constitutional rights due to prolonged administrative neglect and corruption. He contends that the failure of Respondents No.1 to 4 to issue him an appointment letter is illegal, arbitrary, and without lawful justification. Hence, this petition.

3. Pursuant to the notice issued by this Court, Respondent No.2 has filed his comments, wherein he has stated that although an advertisement was published inviting candidates for walk-in interviews for appointments against lower grade posts, the petitioner neither applied for nor appeared in the said interview process. Hence, Respondent No.2 has denied the version of the petitioner. He has further submitted that the petitioner relied upon a letter bearing No.1535 dated 30.10.2017 issued by the Education Department, Shaheed Benazirabad, addressed to the Mukhtiarkar (Revenue), Nawabshah, seeking confirmation regarding the ownership of the plot upon which Government Boys Primary School (GBPS) Waryam Ji Khoohi is constructed. In response, the Mukhtiarkar, through letter No.1257 dated 03.11.2007, clarified that the school is constructed on Government owned land. Therefore, the claim of the petitioner, according to Respondent No.2, is without merit. It has further been contended that a suitable, eligible and local candidate namely Shah Nawaz son of Moosa Mahar, was appointed as Chowkidar on merit through the due recruitment process, hence, the petitioner's claim stands unjustified.

4. Since Respondent No.2, in his comments, stated that Shah Nawaz s/o Moosa Mahar was appointed against the subject post after being found eligible and local, and that his appointment was made on merit through a proper recruitment process, the learned Assistant Advocate General, vide order dated 06.11.2019 passed in the instant petition, undertook to place the relevant appointment record before this Court. Consequently, through a statement dated 10.12.2019, the learned A.A.G. Sindh submitted the credentials of Shah Nawaz on behalf of Respondent No.2. These included copies of his Computerized National Identity Card, Offer Order, Fitness Certificate, Posting Order, Domicile Certificate, Form-D and a Residence Certificate issued by the Nazim of Union Council Chanesser-II, Taluka Nawabshah, District Shaheed

Benazirabad. The submission of these documents confirms the appointment of Shah Nawaz Mahar as Chowkidar through due process.

5. Learned counsel for the petitioner contends that the petitioner belongs to the same locality where the Government Boys Primary School, Waryam Ji Khoohi, is situated and has been actively associated with its establishment. He submits that the land on which the school building is constructed was donated by one Nasrullah, the nek mard of the petitioner's family and in recognition of such public service, the petitioner was recommended for appointment as Chowkidar. He further contends that the petitioner had applied pursuant to the advertisement, appeared in the written test and interview, but was unlawfully ignored and no final result was issued. He alleges mala fide on the part of the respondents in bypassing the petitioner and appointing a candidate from a different area on extraneous considerations. He, therefore, prays for issuance of a direction for the petitioner's appointment.

6. On the other hand, learned A.A.G. Sindh, while vehemently opposing the petition, contends that the petitioner neither applied nor appeared in the walk-in-interview process conducted for recruitment against lower-grade posts, as evident from the official record. He contends that the claim regarding donation of land is misconceived and stands negated by the verification report of the Mukhtiarkar, which confirms that the school is constructed on Government land. He further contends that public appointments cannot be granted as a matter of right on the basis of an alleged donation and must be made strictly in accordance with law, merit and eligibility criteria. He further contends that the appointment of Shah Nawaz, was made transparently and after verifying his local status and fitness. He further contends that the petitioner has failed to show any vested legal right for the relief claimed and he prayed for dismissal of instant petition.

7. We have heard the learned counsel for the petitioner as well as learned A.A.G. Sindh and carefully examined the entire record available on file.

8. Perusal of the record reveals that the petitioner has failed to substantiate his claim regarding the alleged donation of the land for the construction of the Government Boys Primary School, Waryam Ji Khoohi. The verification conducted by the Mukhtiarkar (Revenue), Nawabshah, through letter No.1257 dated 03.11.2007, categorically confirms that the school is constructed on Government owned land. Thus, the claim of the petitioner that he or his family donated the said plot stands unproven and is therefore without legal or factual basis. Furthermore, even assuming for the sake of argument that the land was donated, there exists no statutory provision or rule under the law that grants a right of appointment to any post, including that of a low-grade position such as Chowkidar, on the basis of such donation. Public appointments are required to be made strictly on merit through a transparent and competitive process, as has been demonstrated in the appointment of Shah Nawaz s/o Moosa Mahar, whose credentials were placed on record and found to be in accordance with the prescribed legal procedure.

9. In light of the above discussion, this petition is found to be devoid of merit. The petitioner has failed to establish any enforceable legal right warranting interference by this Court. The claim of entitlement to appointment, based on an unproven donation and unsupported by law, is neither tenable nor justified. Accordingly, the petition is **dismissed** with no order as to costs.

JUDGE

JUDGE