

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Riazat Ali Sahar

C.P. No.D-187 of 2025

[Masroor Ahmed Zai v. Province of Sindh & others]

C.P. No.D-1252 of 2025

[Masroor Ahmed Zai v. Province of Sindh & others]

Petitioner: Masroor Ahmed Zai through Syed Ali Ahmed Zaidi, advocate.

Respondents: Province of Sindh and others through Mr. Rafique Ahmed Dahri, Assistant Advocate General Sindh and Mr. Muhammad Arshad S.Pathan, Advocate for respondents-BISE Hyderabad and Shoukat Ali.

Date of hearing: 13.11.2025

Date of Judgment: 13.11.2025

J U D G M E N T

RIAZAT ALI SAHAR, J: - Both the captioned petitions have been instituted by the same petitioner and are inter-connected; therefore, the same are being disposed of through this common judgment.

2. Briefly stated, the petitioner was appointed as Controller of Examinations (BPS-19), Board of Intermediate and Secondary Education, Hyderabad (hereinafter referred to as “the Board”), on a tenure basis for a period of three years in terms of Section 14(2) of the Sindh Boards of Intermediate and Secondary Education Ordinance, 1972. Prior to this appointment, he was serving as Deputy Controller of Examinations (BPS-18).

3. An inquiry was initiated against the petitioner by the Chief Minister’s Inspection, Enquiries and Implementation Team (CMIET), culminating in an inquiry report dated 27.03.2023 wherein the petitioner was allegedly found guilty of criminal breach of trust, forgery, tampering, widespread manipulation of results, corruption and severe violations of rules, regulations and policies. Acting upon said report, the petitioner was

removed from the post of Controller. Consequent thereto, vide office order dated 12.03.2025, the petitioner was directed to report to the office of the PS to Chairman, Board, on a daily basis for marking attendance and was restrained from holding any office until further orders. His official vehicle facility was also discontinued forthwith. Under a subsequent office order dated 27.11.2024, the earlier order dated 23.04.2024 relating to fixation of his pay from BPS-18 to BPS-19 was cancelled/withdrawn retrospectively.

4. Thereafter, vide letter dated 28.01.2025 issued by the Secretary of the Board, the petitioner was removed from service. The said removal order was suspended by this Court in C.P. No.D-187/2025 vide order dated 11.02.2025. Despite the suspension, the Board again placed the petitioner under suspension vide order dated 12.03.2025, directing him once again to report to the office of PS to Chairman on daily basis.

5. According to the petitioner, the actions taken against him are in disregard of due process. He asserts that he challenged the jurisdiction of CMIET and the proceedings conducted pursuant thereto. He submits that the Sub-Committee tasked to act upon the CMIET report prepared an Inquiry Report which, besides other recommendations, suggested criminal prosecution against him and certain officials. Aggrieved thereby, the petitioner filed C.P. No.D-1473/2025 seeking annulment of the Inquiry Report and all consequential actions. Vide order dated 22.04.2025, this Court restrained the respondents from taking any coercive action against him.

6. The petitioner stated that the impugned notifications and office orders are contrary to the governing statute, the Sindh Boards of Intermediate and Secondary Education Ordinance, 1972 and negate the vested right of the petitioner to complete his statutory tenure. He alleged mala fides, arbitrariness and malice on the part of the respondents, stating that all impugned actions have been taken without adhering to the due process of law and the service rules applicable to him.

7. The petitioner further submitted that placing him on OSD for an indefinite period is impermissible under the law. He claimed that repeated attempts to remove him from service and to nullify the appointment made by the competent authority are unlawful. Despite being the senior-most officer of the Board, he has been sidelined and a junior officer of BPS-18 has been assigned to look after the position of Controller of

Examinations, which he alleged is in violation of rules. The petitioner stated that he earlier challenged some of the impugned office orders through C.P. No.D-1926/2025 before the Principal Seat of this Court; however, the said petition was withdrawn subsequently due to a jurisdictional defect.

8. It is further stated that the impugned actions have been taken without affording him an opportunity of hearing, thereby violating Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973.

9. The petitioner has also questioned the legality of Respondent Shaukat Ali holding the position of Secretary of the Board. According to the petitioner, the said respondent is originally an employee of the College Education Department and the Universities & Boards Department vide notification dated 23.11.2023 had withdrawn the one-year extension earlier granted to him under notification dated 14.07.2023. Respondent Shaukat Ali challenged the withdrawal notification before the Principal Seat of this Court in Suit No.1966/2023 wherein the withdrawal notification was suspended on 30.11.2023; however, the said suit was subsequently withdrawn unconditionally.

10. Pursuant to the Court notice, the respondents in their comments stated that the petitions are not maintainable in light of Section 26 of the Sindh Boards of Intermediate and Secondary Education Ordinance, 1972, which bars legal proceedings against the Government or Board officials for acts done in good faith under the Ordinance, Rules, or Regulations. The impugned actions, according to them, fall squarely within this statutory protection. **They further stated that the Chief Minister, being the Controlling Authority of the Board, is responsible for its administration, discipline and transparency.** The withdrawal of acting charge from the petitioner and related measures were undertaken on the directions of the Controlling Authority and on the recommendations of the CMIE&IT Department. Such administrative decisions cannot be challenged through constitutional jurisdiction. The respondents stated that the petitioner was holding the post of Controller of Examinations merely on an ***acting charge basis***, which confers no vested or enforceable right. Therefore, he lacks locus standi to challenge the Notification dated 27.03.2025 or any administrative decision regarding the said post. Even after withdrawal of acting charge, he continued to hold his substantive post of Deputy Controller of Examinations. **The respondents further contended that the petitioner has been accused of serious offences**

including malpractice, tampering, manipulation of results and gross corruption offences affecting the future of thousands of students. The inquiry report communicated by the Chairman substantiates these allegations and his removal from acting charge was a lawful consequence. They alleged that the petitioner was initially inducted into the Board unlawfully and despite being a BPS-17/18 officer, has held the post of Controller for years under external pressure. They pointed out that the petitioner has already challenged similar matters earlier in C.P. No.D-1473/2025 (Karachi) regarding the CMIE&IT recommendations and in C.P. No.D-1926/2025 (Hyderabad) against orders of the Board. The present petitions, according to respondents, constitute a continuation of frivolous litigation aimed at obstructing accountability. The respondents further stated that the petitioner himself is unlawfully holding positions beyond his grade and therefore, the nature of any writ of quo warranto would apply against the petitioner rather than in his favour. They stated that he has misused litigation to secure interim protection after the suspension of his termination order.

11. Regarding Respondent Shoukat Ali, it is stated that he has been lawfully posted by the Government of Sindh and the Universities & Boards Department after fulfilling all legal and codal formalities. His extension previously withdrawn through the notification dated 23.11.2023 was suspended by the competent judicial forum and thereafter the competent authority approved his continuation for six months or until a regular incumbent is appointed. No legal irregularity exists in his appointment. The respondents alleged that the petitioner has filed these petitions merely to evade accountability for corruption and to malign the lawful posting of respondent officers. They further stated that the petitioner is resisting reforms aimed at transparency, administrative improvement and facilitation of students within the jurisdiction of BISE Hyderabad. On these grounds, the respondents jointly pray for dismissal of the petitions as being not maintainable, misconceived and devoid of merit.

12. Learned counsel for the petitioner contended that the impugned actions are in violation of the Sindh Boards of Intermediate and Secondary Education Ordinance, 1972 and that the petitioner has been deprived of his tenure post without affording him the constitutional guarantee of due process under Article 10-A of the Constitution. He contended that the CMIE&IT lacked lawful jurisdiction to conduct the inquiry

and the subsequent Sub-Committee report is tainted with arbitrariness and mala fides. He further contended that the petitioner, being a tenure holder, could not be displaced through administrative maneuverings. He contended that the petitioner has submitted an application before the Chief Minister for initiation of a fresh inquiry, which bears the endorsement “For necessary action,” thereby demonstrating that the matter requires lawful evaluation by the competent authority. He, therefore, prayed that the petitions may be allowed.

13. Learned A.A.G. Sindh contended that the petitions are barred under Section 26 of the Ordinance of 1972, which protects actions taken in good faith. He contended that the Chief Minister, as Controlling Authority, is vested with wide supervisory and administrative powers over the Board, including issuance of directions concerning discipline, administration and postings. According to him, the impugned measures, being administrative in nature and rooted in the recommendations of CMIET, fall squarely within such authority. He also pointed out that acting charge confers no vested right and in the face of grave allegations of malpractice and manipulation of examination results, the administrative withdrawal of acting charge cannot be questioned under Article 199 of the Constitution.

14. Learned counsel for respondent Shoukat Ali contended that respondent Shoukat has been posted in accordance with law and with approval of the competent authority. The earlier withdrawal of extension was suspended by a competent forum and thereafter continuation was allowed by the appropriate authority. He contended that no legal infirmity exists in the appointment of respondent Shoukat Ali and that the petitioner’s challenge is motivated, frivolous and intended merely to obstruct lawful administrative processes.

15. We have considered the submissions of learned counsel for the parties and have examined the available record. It is apparent that the measures impugned by the petitioner arise from administrative decisions taken pursuant to statutory powers conferred upon the Controlling Authority under the Ordinance of 1972. Such decisions concerning postings, withdrawal of acting charge and administrative discipline are within the exclusive executive domain and are ordinarily not amenable to interference unless shown to be without jurisdiction or actuated by demonstrable malice, which has not been established by the petitioner.

16. It is further reflected from the material placed on record, including the statement submitted by the Chairman, BISE Hyderabad, that **serious concerns had arisen regarding large-scale manipulation of examination results within the Board. The Chairman reported that during the process of digitalization of the examination system, serious discrepancies were detected, including the preparation of two parallel sets of results, one compiled through the newly introduced Automated Result Processing System in accordance with established SOPs and another allegedly compiled manually on a single manipulated sheet, bypassing mandatory ledgers, award lists and cross-verification mechanisms.** It was also reported that the then Controller of Examinations and the IT Manager had refused to implement the automated system and further inquiry revealed unauthorized insertion of hundreds of entries into the system without compliance of SOPs, suggesting systemic malpractice. These allegations, coupled with the ongoing inquiry initiated by the Controlling Authority, formed the administrative basis for withdrawal of acting charge from the petitioner and other corrective measures. Moreover, **the statement of the Ex-Chairman, BISE Hyderabad, recorded on 18.02.2025, reflects that he served on additional charge from 21.10.2021 to 05.05.2023 and supervised overall board management, while the Controller of Examinations was responsible for conducting examinations and preparing results. He stated that the Enquiry Team presented 2022 ledgers showing discrepancies pointing to digital manipulation, a responsibility resting with the Controller. He added that manual and computer-based ledgers are reconciled under the Controller's supervision and the tampering indicated possible collusion with the IT Manager.** He further noted that before announcement of the results - 2022, he had instructed that they be issued transparently and that any wrongdoing would be the responsibility of the concerned officers. He concluded that the Enquiry Committee may obtain the relevant approval record, as final results are submitted to the Chairman only after being prepared error-free by the Controller. However, it is clarified that this Court is neither affirming nor adjudicating upon the correctness of the said allegations and any determination thereof must be made strictly through a lawful inquiry affording due process to all concerned.

17. The record further reflects that the **petitioner was holding the post of Controller of Examinations only on acting charge.** It is

well-settled that acting or look-after arrangements do not create any vested or enforceable right. The petitioner continued to hold his substantive post and the administrative readjustments made in view of **allegations of serious misconduct, manipulation of results and maladministration** cannot be termed illegal merely on that ground. The application addressed by the petitioner to the Chief Minister, along with the communication dated 31.10.2025 from the Section Officer-IX placed on record through a statement of learned counsel for the petitioner, indicates that the matter has been marked as “For necessary action.” Should any fresh inquiry be initiated, the same shall be undertaken strictly in accordance with law, rules and due process, free from any inference or restriction arising from this judgment.

18. Before proceeding further, it is necessary to observe that the **Sindh Boards of Intermediate and Secondary Education Ordinance, 1972 provides a complete statutory scheme governing the structure, functioning and discipline of the Boards.** The Controlling Authority exercises overarching supervisory powers, including the authority to order inspections and inquiries into any matter concerning the Board, while the Chairman, Secretary and Controller of Examinations are whole-time statutory officers appointed by the Controlling Authority on terms determined by it. The Schedule appended to the Ordinance further stipulates tenure, duties and the mechanisms of administrative oversight. **The statutory framework thus contemplates a hierarchical structure in which the Controlling Authority (The chief Minister Sindh) retains the power to issue binding directions in matters of administration, discipline and transparency.** Any assessment of the impugned actions taken against the petitioner must therefore be viewed within this statutory context, which vests the Controlling Authority (The chief Minister Sindh) with broad supervisory jurisdiction over both the Board and its officers.

19. We observe before parting that the post of Secretary of the Board is a statutory position and its regular appointment is to be made strictly under the Ordinance of 1972 and the rules framed thereunder within one month. If a regular incumbent has not been appointed thus far, the competent authorities shall ensure compliance with the statutory framework and principles of good governance while making such appointment as no stopgap arrangement shall be made/ allowed.

20. In view of the above facts, circumstances and discussion, we hold that the impugned administrative actions fall within the lawful ambit of authority vested in the Controlling Authority (The chief Minister Sindh) and do not warrant interference in the constitutional jurisdiction of this Court. Consequently, these petitions are **dismissed**. However, leaving the respondents at liberty to proceed strictly in accordance with law, rules and due process. Fresh inquiry, if any, as the process for the same is evident on the application of petitioner in letter dated 31.10.2025 issued by the Section Officer-IX of the Chief Minister Secretariat, Sindh Karachi to the Chief Secretary, Government of Sindh, Karachi shall be conducted strictly in accordance with law after providing opportunity of hearing to the petitioner. This judgment shall not be construed as an impediment to any inquiry or administrative measure that may lawfully be undertaken by the competent authorities.

JUDGE

JUDGE

Abdullahchanna/PS