

Order Sheet

HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

CP No. D- 665 of 2024
[Jawaid Khan and another v. Province of Sindh & others]

Before :

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Riazat Ali Sahar

Petitioner : Through Syed Hammad Ali Shah Advocate
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of Hearing
& Decision: 09.12.2025

O R D E R

ADNAN-UL-KARIM MEMON, J.- Through the listed Constitutional Petitions, the Petitioners have prayed as under:-

- a. To set aside the impugned order dated 19.03.2024 issued by the respondent No.3 with the concurrence of the respondent No.4 being in contravention of under Section 54(6) of Sindh Cooperative Societies Rules, 2020, Article 4, 10-A & 19-A of the Constitution of Islamic Republic of Pakistan, 1973 and Sindh Transparency and Right to Information Act, 2016 and the present society may be allowed to work for the betterment of the society till the completion of its tenure..
- b. Interim orders solicited whereby suspending the operation and implementation of the impugned order till the final Decision of the Petition.

2. Case of the petitioners is that the Public Health Engineering Department Staff Multipurpose Cooperative Society Limited (hereinafter referred to as the "Society") is duly registered society under Registration No.512. The Society was established on a land area of 12-25 acres, comprising RS No. 147/1, 147/2, and 146/1, situated in Deh Rahuki, Tappo Tando Qaiser, Taluka and District Hyderabad. Since its inception, the Society has been managed by duly elected body, which has worked tirelessly for the welfare and benefit of its members, carrying out its activities consistently and diligently over the years. Pursuant to notification issued by the Government of Sindh, elections for the Society were required to be conducted. Accordingly, the Society organized elections in compliance with the guidelines of Cooperative Department, resulting in the election of the present managing body. This body has been performing its duties with dedication, aiming at the welfare and prosperity of the Society and its members. Due to fair, transparent, and prudent management by the Society, its financial position has strengthened significantly, with the balance increasing to approximately Rs.70 to 80

lacs. Furthermore, the Society has conducted audits for the period from 08.04.2000 to 30.06.2022, in addition to audits of the preceding 22 years. These audits clearly reflect the transparent and honest management of the Society's affairs. However, observing the flourishing condition of the Society and its substantial bank balance, respondents 3 & 4 with malicious intent, without providing any evidence or proof, issued an order dated 19.03.2024. The order alleged that multiple complaints had been received against the Society and that it was operating in violation of the Cooperative Societies Act and Rules, 2020. In purported exercise of powers under Rule 54 of the Cooperative Societies Rules, 2020, Respondent No.6 was appointed to supersede the affairs of the Society and act as Incharge Committee, with instructions to conduct elections within three months. The petitioners submit that the real purpose behind appointing Respondent No.6 as Incharge was to misappropriate the Society's substantial funds, amounting to Rs.70 to 80 lacs, through corruption, favoritism, and malpractices. Furthermore, the impugned order was never officially communicated to any member of the Society. The members for the first time became aware of the order on 21.03.2024, when it was pasted on the office door, by which time the office had already been sealed.

3. The petitioners' counsel contends that the actions of Respondents 3 to 6, in collusion, demonstrate clear *mala fide* intentions. The elected body of the Society was unlawfully prevented from functioning, with the ulterior motive of embezzling the Society's funds. No evidence or substantiated complaint was ever provided to the Society; only vague and unverified allegations were made, which are legally untenable. The Society was condemned unheard, which is in direct violation of the principles of natural justice as enshrined in Articles 4, 10-A, and 19-A of the Constitution of the Islamic Republic of Pakistan, 1973, as well as the Sindh Transparency and Right to Information Act, 2016. Moreover, the actions of Respondents 3 & 4 in appointing Respondent No.6 to supersede the Society's affairs contravene Section 54(6) of the Sindh Cooperative Societies Rules, 2020. Under the said provision, before issuing an order under Section 54(1) or (2), the Society must be provided an opportunity to show cause as to why such an order should not be made. Even in cases requiring emergent action, such an opportunity must be afforded as soon thereafter as possible. In the present case, no such opportunity was provided, thus violating the principles of natural justice and Islamic jurisprudence; that before filing of the present petition, the petitioners had filed Constitutional Petition No. D-626 of 2024 (Re: Jawaid Khan & another vs. Province of Sindh & others), which was dismissed as not pressed on 28.03.2024, directing the petitioners to approach the concerned Court. Subsequently, the petitioners filed a Suit before 5th Senior Civil Judge, Hyderabad. However, the suit was dismissed in limine on the ground that the Court lacked jurisdiction under Section 53 of the Sindh Cooperative Societies Rules, 2020. Consequently, the petitioners are compelled to file the present petition afresh before this Court. The petitioners' counsel submit that the present petition is maintainable, as similar petitions have been

entertained and allowed by this Court including C.P. No. D-235 of 2024, C.P. No. D-600 of 2024, C.P. No. D-419 of 2024, C.P. No. D-1528 of 2024, and C.P. No. D-3149 of 2023. Finally, the petitioners' counsel assert that petitioners are "aggrieved persons" within the meaning of Article 199 of the Constitution of Islamic Republic of Pakistan, as their fundamental rights have been seriously infringed by the impugned actions of the respondents. He prayed to allow this Petition.

4. Learned AAG submitted that the petitioner has no cause of action to institute or maintain the instant Petition; that the petitioner has not approached this Court with clean hands, as the action is motivated by ill-will and malice. Consequently, the petitioner is not entitled to any equitable or discretionary relief from this Court. He also argued that the petitioner has failed to challenge or controvert the facts of the case, and that the documents relied upon by the petitioner do not demonstrate valid or genuine consent. He prayed to dismiss the petition.

5. After considering the contentions of both parties and the facts on record, it is evident that the petitioners have established a *prima facie* case of procedural violation under Section 54(6) of the Sindh Cooperative Societies Rules, 2020. The supersession of the Society without providing prior notice amounts to clear breach of the principles of natural justice. The respondents' arguments regarding *mala fide* intent and validity of the documents do not outweigh the procedural irregularities identified.

6. Accordingly, the competent authority of respondents is directed to afford the Society an opportunity to show cause before taking any adverse action relating to its supersession or the conduct of elections. In the event that the Society's elections have not yet been held, due to any reasons, the same shall be conducted within three months through the appointment of an impartial administrator, who shall ensure full compliance with all codal formalities and conduct the elections in a fair and transparent manner.

The petition is disposed of in the above terms.

JUDGE

JUDGE

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