

Order Sheet

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D- 825 of 2025

[Atta ur Rehman Memon & others v. Secretary Government of Sindh & others]

Before :

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Riazat Ali Sahar

Petitioners : Through Mr. Ghulam Murtaza Shaikh, Advocate

Respondents : Through Mr. Abdullah K. Leghari, Advocate

Mr. Muhammad Ismail Bhutto, Addl. A.G., along with Abdul Wajid Shaikh Registrar Cooperative Societies Sindh, Ali Hyder Abro Assistant Registrar Cooperative Societies Jamshoro and Abdul Qadir Soomro, Assistant Registrar Hyderabad.

Date of Hearing

& Decision: 12.12.2025

ORDER

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

- a) To direct the respondents to conduct a free and fair Election and provide the chance to all residents to exercise their vote of rights and participate as a candidate in the Managing Committee.
- b) That this Honourable Court may be pleased to direct the respondents No.2 & 3 to provide water to the residence of the MUECHS Jamshoro as well as provide the sewerage disposal of the MUECHS.
- c) That this Honourable Court may be pleased to direct the respondents to stop the transactions from the account of the MUECHS Jamshoro in the name of development.
- d) Costs of the petition may be saddled upon the respondents.
- e) Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the petitioners may be granted.

2. It is the case of the Petitioners that they are residents of the Housing Society of the Employees of Mehran University of Engineering and Technology, Jamshoro (MUECHS). The Petitioners purchased their respective plots from employees of MUET after completion of all codal and legal formalities. The said society is duly

registered under Section 10 of the Sindh Cooperative Societies Act, VII of 1925. The society was initially established by MUET, Jamshoro, for housing purposes of its employees, and subsequently, the allotted plots were transferred to private individuals. Initially, all plots were allotted exclusively to MUET employees, who thereby became members of the society with full rights to vote and contest elections. However, many of such allottees later sold their plots to third parties, including the Petitioners. Despite lawful transfers of plots, the Petitioners have neither been enrolled as members of the society nor granted the right to vote or contest elections, even though they constitute the majority of plot holders. It is urged that historically, elections of the society were conducted annually by the Office of the Secretary, MUECHS, Jamshoro, through an Election Committee constituted in accordance with the society's by-laws. However, eligibility to contest elections and to vote was restricted only to MUET employees who owned plots, thereby unlawfully excluding the Petitioners from the electoral process. Due to allegations of corruption, Respondent No.1, vide Notification dated 16-06-2023, constituted a committee under the supervision of Mrs. Rabia Khan, Assistant Registrar Cooperative Societies (BPS-17), along with two senior and reputable members of MUECHS Ltd., Jamshoro, to manage the affairs of the society and to conduct elections within a period of three (03) months. Soon after assuming charge, the office record and account record of MUECHS Jamshoro were forcibly taken to the office of Respondent No.2 / Registrar Cooperative Societies, and no elections were conducted. Subsequently, Respondent No.1, vide Notification dated 06-03-2024, again constituted a committee under the supervision of Mr. Zainul Abidin, Sub-Inspector Cooperative Societies (BPS-14), along with two senior and reputable members of MUECHS Jamshoro, to look after the affairs of the society and to conduct elections. Despite this, no elections were held. Thereafter, upon tendering resignation from the charge of Administrator of MUECHS Jamshoro, Respondent No.1, vide Notification dated 20-03-2025, appointed Mr. Muhammad Hanif Utero as Administrator of the society with directions to manage the affairs of the society and to hold elections within three (03) months. However, no elections were conducted, and instead, the said Administrator allegedly and unlawfully withdrew an amount of Rs. 9,520,000/- from the society's account. A complaint in this regard was made by the Managing Committee to the Chief Secretary, Government of Sindh. That Respondent No.2 is legally responsible for ensuring the conduct of elections within the prescribed period; however, instead of conducting elections, the Respondents have been repeatedly changing Administrators after every six months, thereby facilitating mismanagement and embezzlement of the society's funds. That Respondent No.3, namely the Sindh Development Authority (SDA), received millions of rupees from the Office of the Secretary, MUECHS Jamshoro, with a commitment to provide water supply lines, but failed to provide the same. Despite repeated approaches by the Petitioners for the

conduct of free, fair, and transparent elections, the Respondents failed to discharge their statutory duties. They prayed to allow this Petition.

3. Learned AAG submitted that the affairs, management, allotment, membership, and conduct of elections of MUECHS are exclusively governed by the Sindh Cooperative Societies Act, 1925, and the by-laws framed thereunder. It is further contended that matters relating to membership, electoral rights, transfer of plots, and eligibility of voters and candidates fall solely within the domain of the Cooperative Department and are regulated by the registered by-laws of MUECHS. He asserted that the sealing of the office and the appointment of supervision committees were actions taken by the Cooperative Department, due to certain reasons. Lastly, the learned AAG has prayed to dismiss this Petition.

4. We have heard the parties present in Court and perused the record with their assistance.

5. We have noticed that the elections of MUECHS have not been conducted for a considerable period despite repeated notifications and statutory directions. The continued appointment of successive Administrators, failure to hold elections within the prescribed time, and allegations of financial irregularities have frustrated the democratic functioning of the society and defeated the very object of the Sindh Cooperative Societies Act, 1925.

6. It is a settled principle of law that cooperative societies must be administered through duly elected managing committees, while prolonged administrative control remains an exception rather than the norm. The appointment of an Administrator is merely a temporary arrangement and cannot be allowed to continue indefinitely. Failure to conduct elections within the statutory timeframe constitutes maladministration and results in infringement of the lawful rights of members of the society. Once an individual lawfully acquires rights in the property of a cooperative society, denial of participation in its affairs, including the right to vote and contest elections, without lawful justification, is arbitrary and discriminatory. Where disputes relating to membership are pending, the courts, in order to prevent stagnation or paralysis of the institution, may permit provisional participation in the electoral process, subject to the final determination of such disputes.

7. In such circumstances, the constitutional jurisdiction of this Court can validly be invoked to ensure transparency, fairness, and legality in the conduct of elections of Societies created under the statutes, if affairs of the society are being run contrary to the law. Accordingly, this petition is held to be maintainable to examine the conduct of the concerned officers who failed to hold elections within the prescribed time, in violation of the statutory duties cast upon them under the law.

8. Primarily, the right of members to participate in the management and affairs of a cooperative society, particularly through the electoral process, cannot be curtailed arbitrarily, especially where such members are in lawful possession of plots and have acquired rights through valid transfers. In such circumstances, we deem it appropriate to appoint Mr. Karar Hussain Memon, Private Secretary to Judge (BPS-20), High Court of Sindh Circuit Court Hyderabad as Administrator and Mr. Imdad Ali Mughal Retired Cooperative Officer as his Assistant. Respondent No.1 / Cooperative Department is directed to issue such Notification within seven (07) days from today. The newly appointed Administrator of MUECHS, who shall be vested with all powers conferred under the Sindh Cooperative Societies Act, 1925, and registered by-laws of the society. The Administrator shall conduct free, fair, and transparent elections of Mehran University Employees Cooperative Housing Society, Jamshoro within a period of three (03) months from the date of his appointment, strictly in accordance with law and the by-laws of the society. The fee of Administrator is fixed at Rs.3,00,000/- (Three Lacs) which shall be paid from the funds of society in advance. Any person who owns a plot and is duly registered as a member of the society shall be entitled to contest the election and cast his/her vote. Any person who has lawfully purchased a plot but whose name has not yet been entered in the membership register shall also be provisionally allowed to contest the election and cast his/her vote, subject to verification of ownership documents. However, the result of such provisional candidates/voters shall be withheld, and the final declaration thereof shall remain subject to the final decision of this Court regarding their membership status. After conducting Elections the office shall fix the matter for further orders on the subject point. The Administrator shall ensure that no funds of the society are withdrawn or utilized, except for election-related expenses and routine administrative work, strictly in accordance with law, and shall maintain proper accounts to be properly audited so that the facts be brought on record for further proceedings by the duly elected committee. The other issues as raised in the matter shall be duly attended to by the elected body of the society, in coordination with the Government, if so required.

9. With the above observations and directions, the petition stands disposed of.

Copy of this order be communicated to Mehran University Employees Cooperative Housing Society, Jamshoro and Secretary, Government of Sindh, Cooperative Department for information and immediately compliance.

JUDGE

JUDGE