

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D- 1696 of 2025

[Gohar Khan v. Province of Sindh & Others]

BEFORE:

MR. JUSTICE ADNAN-UL-KARIM MEMON

MR. JUSTICE RIAZAT ALI SAHAR

Mr. Ishrat Ali Lohar, Advocate for Petitioner

Mr. Masood Rasool Babar, Advocate for respondent-University

Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing:

& Decision:

18.12.2025

ORDER

ADNAN-UL-KARIM MEMON, J - The Petitioner through the instant
Constitutional Petition has prayed as under:-

(a) That, this Honorable. Court may be pleased to declare that the policy for allotment of Government Residential Accommodation at Hyderabad to the extent of cancellation without adopting due process of law/ without notice is ultra vires to the Article 8 of Constitution of Islamic Republic of Pakistan, 1973.

(b) That, this Honorable Court may very graciously be pleased to declare that the allotment of Government accommodation to petitioner is valid, lawful and as per policy. Furthermore, the cancellation of allotment of petitioner is illegal and void as the same was issued without adopting due process of law.

(c) That this Honorable Court may be pleased to pass the interim order to direct the respondents from not taking any coercive action against the petitioner, in any manner, whatsoever till the final decision of this petition.

(d) Any other relief which this Honorable court deems fit, just proper in favor of the petitioner

2. The case of the petitioner is that he a government servant serving as Accounts Officer in the office of CMO, Municipal Committee Qasimabad, Hyderabad. On 29.05.2015, he was allotted Flat No. C-18, GOR Colony, Thandi Sarak, Hyderabad, while posted at TMA Jhando Mari, Taluka Tando Allahyar. Since the date of allotment, the petitioner has been residing in the flat along with his family and has been regularly paying the rent and utility bills. On 14.07.2025, the petitioner

received a notice for vacation of the premises from Respondent No.5. Subsequently, Respondent No.2, without issuing any show-cause notice or affording an opportunity of hearing, illegally cancelled the petitioner's allotment and re-allotted the premises to Respondent No.6, in clear violation of Article 10-A of the Constitution, settled law, and the applicable policy. The petitioner asserts that the cancellation was made without due process and is therefore void ab initio. The official respondents are attempting to forcibly evict the petitioner through coercive measures, despite the fact that he has no alternate accommodation. Reliance on policy clauses allowing cancellation without notice is unconstitutional, ultra vires fundamental rights, and against the principles of natural justice. The petitioner apprehends imminent illegal action, including forcible eviction and loss to life and property. Prior to filing this petition, the petitioner approached the Civil Court, where learned Senior Civil Judge-II, Hyderabad, vide order dated 26.08.2025, observed relying upon the judgment of the Supreme Court in Govt. of Pakistan, Ministry of Housing & Works v. Malik Sagheer Ahmed (2023 PLC (CS) 367) that remedies under the relevant policy must first be exhausted. Finding no efficacious alternate remedy, the petitioner has filed the instant constitutional petition seeking protection and lawful relief.

3. Learned counsel for the petitioner contended that the respondents cancelled the petitioner's allotment without issuing any prior notice or affording an opportunity of hearing, in blatant violation of due process of law. Reliance on policy terms permitting cancellation without notice is unconstitutional and contrary to the settled principle that no person shall be condemned unheard, as guaranteed under Article 10-A of the Constitution. Consequently, the cancellation order is void and carries no legal sanctity. It was further argued that the respondents adopted a pick-and-choose approach, causing grave prejudice to the petitioner. The civil bureaucracy, being the backbone of the State, is duty-bound to act in accordance with the Constitution and law, as mandated by Article 5 of the Constitution. He added that the petitioner has been residing in the premises for a long time, regularly paying rent and utility bills, and has no alternate accommodation. Any forcible eviction without lawful process would violate Articles 9 and 14 of the Constitution. Learned counsel therefore prayed for acceptance of the petition.

4. Upon notice, Respondent Nos. 2 to 4 filed comments stating that the competent authority issued a notice directing the petitioner to vacate the government accommodation within three days, to which he failed to respond. The notice was issued in compliance with directions of this Court to retrieve possession from unauthorized occupants after providing due notice. It was further stated that the petitioner's allotment was cancelled in accordance with the prevailing allotment policy, which bars allotment of residential accommodation to employees of autonomous bodies, and in compliance with this Court's order dated 22.02.2023 passed in CP No. D-2844 of 2022. The subsequent allotment in favour of

Respondent No.6 was made strictly in accordance with government policy. They prayed for dismissal of the petition.

5. In view of the above facts and circumstances, it is observed that the matter relating to cancellation of allotment and vacation of government accommodation is required to be dealt with strictly in accordance with law and the applicable policy, after following due process.

6. Accordingly, this petition is disposed of with direction that the competent authority shall initiate lawful proceedings for vacation of official accommodation from illegal and unauthorized occupants, including the subject premises, strictly in accordance with law, within a period of sixty (60) days from the date of this order.

7. It is further directed that the entire District Administration shall be responsible for ensuring the vacation of all official accommodations from illegal and unauthorized occupants. In case of any resistance or creation of law and order situation, the District Administration shall be at liberty to take appropriate action in accordance with law, including invocation of Section 154 Cr.P.C., if so warranted.

JUDGE

JUDGE

Karar_Hussain/PS*