

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.D-1780 of 2025

[High Court Bar Association Co-operative Society Limited v. Province of Sindh and others]

BEFORE:

**JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR**

Ayaz Hussain Tunio, Advocate, Petitioner in person

M/s. Allah Bachayo Soomro, Addl. A.G. Rafiq Ahmed Dahri, Asstt: A.G.,
Date of hearing & decision: 04.12.2025

ORDER

ADNAN-UL-KARIM MEMON J.- The petitioner, High Court Bar Association Co-operative Society Limited, through this Constitutional Petition, has prayed as follows:-

- a) Set aside the impugned Notification No. SO(SA)HCBACHS/2025 (PT-1) 195 dated 24.09.2025 appointing respondent No. 5 as Administrator, and the letter dated 25.09.2025 directing the petitioner to hand over the original record of the Society, being illegal, void ab initio, and without lawful authority.
- b) Suspend the operation of the above impugned notification and letter till the final decision of this petition.
- c) Appoint the Additional Registrar of this Hon'ble Court or the Deputy Registrar Cooperative Societies, Hyderabad, to conduct elections of the petitioner-Society within six months.
- d) Direct the respondents to strictly comply with the SOP issued vide Notification dated 21.08.2025.
- e) Restrain respondent No. 5 from disposing of or alienating the Society's property or undertaking any major financial transactions.
- f) Restrain the respondents from interfering with the record of the Society or making unauthorized amendments to the Society's by-laws.
- g) Restrain the respondents from taking any action detrimental to the interests of the petitioner-Society.
- h) Grant any other relief deemed fit and proper under the circumstances.

2. The case of the petitioner High Court Bar Association Cooperative Housing Society, Hyderabad, is that it was duly registered under Registration No. HR/11/580 of 2013 with the objective of providing residential accommodation to members of High Court Bar Association, Hyderabad. Following its registration, a

general ban on the allotment of Government land was imposed by the Hon'ble Supreme Court of Pakistan. In response, the petitioner-Society through Mr. Ayaz Hussain Tunio Advocate, approached the Supreme Court by filing CMA No. 1042-K/2015. The petitioner appeared in person and the Supreme Court, through its order dated 07.09.2016, allowed the application and directed the concerned Revenue Department to allot 200 acres of land to the Society. It is submitted that the petitioner-Society comprises approximately 1,400 members, all of whom are practicing Advocates and members of High Court Bar Association, Hyderabad. Pursuant to Supreme Court's directions, the Land Utilization Department issued challans for allotment of 200 acres located in U-A No. 01 of Deh Gaju Takkar, Taluka Latifabad, Hyderabad, on 99-years residential lease, which were duly deposited. Thereafter, the Government of Sindh formally allotted said 200 acres to the Society through registered lease deed dated 12.12.2022, bearing No. 2505. Meanwhile, the Government issued a letter dated 02.05.2019 approving grant-in-aid funds to enable the Society to submit challans and cover the cost of the allotted land. He submitted that as the challan needed to be bifurcated for payment, the petitioner filed C.P. No. D-746 of 2020 before this Court; where the matter remains pending. However, vide order dated 22.04.2021, this Court directed that a bifurcated challan be issued to the Society. The Province of Sindh challenged the said order through Civil Petition No. 814-K of 2021 before the Supreme Court of Pakistan, but the petition was not pressed by learned Additional Advocate General Sindh and was disposed of on 05.08.2024. He added that due to continuous litigation before this Court as well as before the Supreme Court since 2013, elections of the petitioner-Society could not be held. He emphasized that despite this, respondent No.1 issued a notification dated 24.09.2025 appointing respondent No.5 as Administrator of the Society. Respondent No.5 does not belong to Cooperative Department; he is serving as an Assistant (BPS-16) in the Directorate of Survey and Settlement, Board of Revenue, Hyderabad, and is simultaneously enrolled as an Advocate under Ledger No. 2895/LC/Hyderabad. Soon thereafter, on 25.09.2025, he issued a letter requiring the petitioner to hand over all original records of the Society, a direction which, the petitioner maintains, lacks any lawful authority. Faced with these developments, the Managing Committee of the petitioner society convened an urgent meeting on 25.09.2025 and passed a resolution authorizing filing of present constitutional petition through its Secretary. The petitioner, who is present in person, further submits that respondent No.1 had already issued a general notification dated 21.08.2025 regarding appointment of Administrators in Cooperative Societies, which expressly stipulates in Condition No.5 that no person with a criminal record, pending cases, or inquiries may be appointed as Administrator. In addition, the Director, Planning & Development Control of the Hyderabad Development Authority (HDA), issued a letter dated 16.07.2025 requiring the Society to pay certain fees. In compliance, the petitioner's office issued challans

to Society members for deposit of their respective installments. The petitioner submits that under Sections 6(2) and 7 of the Sindh Cooperative Housing Authority Ordinance, 1982, the Cooperative Department may appoint an Incharge or Administrator solely for the purpose of running day-to-day affairs and conducting elections strictly in accordance with Society's by-laws and the Cooperative Societies Act & Rules, 2020, and that too within a period of six months. Moreover, Section 4 of the Sindh Cooperative Societies Act, 2020, empowers the Registrar to issue search warrant for the recovery of documents only by following the procedure prescribed in Chapter VII of the Code of Criminal Procedure, 1898. Importantly, sub-section (1) of Section 4 restricts exercise of such powers unless prior notice and a reasonable opportunity to produce the required documents. The petitioner also points out that another Advocate, Mr. Mumtaz Ahmed Lashari, along with others, has filed Constitutional Petition No. D-2405 of 2019 concerning the affairs of the petitioner-Society, which remains pending adjudication before this Court. In view of all these circumstances, the petitioner maintains that respondent No.5 has acted far beyond the scope of his authority and has misused his office, rendering his actions liable to judicial scrutiny. He prayed to allow the petition.

3. Learned Additional Advocate General (AAG) opposed the petition, arguing that it is not maintainable and deserves dismissal with heavy costs; that the petitioner has no cause of action against the official respondents and has approached the Court with unclean hands, concealing material facts and producing no credible documents. He argued that this petition is barred by limitation, suffers from mis-joinder and non-joinder of necessary parties, involves multiple unrelated causes of action and constitutes an abuse of court process. No *prima facie* case, balance of convenience, or likelihood of irreparable loss exists in favour of the petitioner. Regarding affairs of the Society, learned A.A.G submits that the Cooperative Department's record reveals several violations by the management, including failure to convene Annual General Body Meetings, non-conduct of mandatory audits, non-holding of annual elections, failure to convene monthly Managing Committee meetings, non-submission of financial statements and failure to maintain mandatory registers. The Society also failed to obtain security deposits from officeholders, failed to provide information regarding beneficial owners within time under Section 26 of the Act, and did not upload required information on WTC/FATF portal. Furthermore, the Society has not amended its Bye-laws in accordance with the 2020 Act and Rules, and incurred substantial development expenses without an approved layout plan or clear title. Due to these persistent irregularities, respondent No.1 lawfully exercised powers under Section 6(2) of the Sindh Cooperative Housing Authority Ordinance, 1982, and issued notification dated 24.09.2025 superseding the Society and appointing respondent No.5 as Administrator. He argues that pending

litigation was never a bar to holding elections, and the Society unjustifiably failed to conduct elections since its registration in 2013. Upon supersession, all powers and records vested in the Administrator; therefore, the letter dated 25.09.2025 directing the petitioner to hand over original record was legal and necessary. Learned A.A.G submits that the Managing Committee stood dissolved after 24.09.2025 and lacked the authority to pass any resolution or file this Petition; that respondent No.5 acted strictly within his lawful powers and that allegations of excess of jurisdiction are baseless. He, therefore, prays for dismissal of the petition.

4. After hearing learned counsel for the parties, examining the material placed on record, and considering the statutory provisions governing Cooperative Housing Societies, it is expedient to have a look on the factual and legal aspect of the case. This Court has noticed that although the petitioner-Society has remained embroiled in litigation since 2013, such pendency alone does not legally justify the continuous failure of the Society to conduct elections as mandated under the Sindh Cooperative Societies Act, 2020, the Sindh Cooperative Housing Authority Ordinance, 1982, and the registered Bye-laws. At the same time, the supersession of an elected Managing Committee is an exceptional measure, permissible only where the competent authority demonstrates persistent statutory violations or mismanagement. Even where supersession is justified, the law circumscribes the powers of an Administrator to the limited purpose of ensuring transparent management and conducting fair elections within a prescribed period.

5. In the present case, the notification dated 24.09.2025 issued by respondent No.1 superseding the Managing Committee and appointing respondent No.5 as Administrator cannot be sustained to the extent that the appointment was made without adherence to the statutory criteria and departmental policy, particularly Condition No.5 of the notification dated 21.08.2025, requiring that an Administrator must be free from pending inquiries or proceedings and ordinarily belong to the Cooperative Department. The appointment of an Assistant of the Board of Revenue who simultaneously practices as an Advocate does not meet the standards of neutrality, administrative qualifications, or departmental discipline required for such an assignment. However, the record simultaneously demonstrates that the Society has undeniably failed to discharge several statutory obligations, particularly the obligation to hold annual elections. The paramount consideration of this Court is to safeguard the democratic rights of the members and ensure that the affairs of the Society are restored to duly elected representatives in accordance with law. Courts have consistently held that prolonged suspension of internal democracy in cooperative bodies is impermissible.

6. The Supreme Court has observed in its various pronouncements that cooperative societies are democratic institutions and that elections must be conducted without undue delay, even if management disputes are pending. Likewise, in Ardeshir Cowasjee v. Karachi Building Control Authority (1999 SCMR 2883), it was held that the supervisory role of authorities must not be used to paralyze or indefinitely suspend the elective process. The Sindh High Court in Muhammad Yousuf v. Province of Sindh (2020 CLC 1202) reiterated that an Administrator, once appointed, is duty-bound to facilitate elections within the statutory timeframe and cannot assume perpetual control. Applying these principles, this Court finds that while irregularities attributed to the Society warrant administrative oversight, the appointment of respondent No.5 cannot continue, as it does not conform to legal requirements nor ensure a transparent electoral process.

7. In the interest of justice and for the restoration of democratic governance within the petitioner-Society, this petition is disposed of with the following directions:

The notification dated 24.09.2025 is modified, and the appointment of respondent No.5 as Administrator is hereby set aside and a new notification be issued forthwith appointing 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 Co-operative Officer, Hyderabad as his Assistant.

The Administrator so appointed shall restrict his functions to routine management of the Society's affairs, preparation of an updated voters' list, ensuring availability of audited accounts, and conducting free, fair, and transparent elections of the Managing Committee of the petitioner society as early as possible preferably within three months from the date of assuming charge. The Administrator shall not take any major financial, administrative, or developmental decision except those essential for facilitating the electoral process.

Upon completion of the elections, the Administrator shall promptly hand over charge to the newly elected Managing Committee of the respondent society and submit a compliance report to this Court.

The fee of Administrator is fixed at Rs.2,50,000/- which shall be paid from the funds of society, in advance.

The President / Secretary of the petitioner society on assuming the charge by Administrator shall handover whole record of the society including members list within a period of one week.

8. The petition stands disposed of along with all pending applications in the above terms. Copy of this order this shall be sent to all concerned for immediate compliance.

JUDGE

JUDGE