

**ORDER SHEET  
HIGH COURT OF SINDH, KARACHI**

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**C.P. No.D-1425 of 2018**

<b>Date</b>	<b>Order with signature of Judge</b>
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**Present**

**Mr. Justice Muhammad Ali Mazhar.**

**Mr. Justice Adnan Iqbal Chaudhry.**

Ibrahim Mamdani .....Petitioner

Versus

Province of Sindh & others.....Respondents

**Date of hearing 06.09.2018**

Petitioner Ibrahim Mamdani is present with his counsel M/s. Altaf Ahmed Shaikh and Jamshed Qazi advocates.

Mr. Mazhar Ali Chauhan advocate for the respondent No.4.

Mr. Ghulam Shabbir Shah, Addl. A.G.

Mr. Kamaruddin Junejo, Nazir High Court of Sindh.

Sheema Arif, Director General, (H.Q.), Social Welfare Department, Government of Sindh.

Imdad Hussain Channa, Deputy Director-VA (H.Q.), Social Welfare Department, Government of Sindh.

Athar Ali Qureshi, Ex-President of Anjuman-e-Hayat-ul-Islam. (respondent No.4)

Anwar Hussain Siddiqui (Respondent No.3), Ex-Administrator of Anjuman-e-Hayat-ul-Islam.

Nawab Din, present Administrator of Anjuman-e-Hayat-ul-Islam. (respondent No.4)

Iqbal Zafar Siddiqui, Ex-Finance Secretary, Anjuman-e-Hayat-ul-Islam. (respondent No.4)

Syed Salman Ali and M. Irfan, Members of Anjuman-e-Hayat-ul-Islam. (respondent No.4)

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**Muhammad Ali Mazhar, J:** It appears from the record that vide order dated 19.03.2018, the Ex-President of the Respondent No.4 Athar Ali Qureshi was impleaded as respondent with the directions to the learned counsel for the petitioner to file amended title but he failed to file amended title but Athar Ali Qureshi is present with his counsel. Mr. Muhammad Rehan Qureshi, advocate undertakes to file vakalatnama in the office and learned counsel for the petitioner will also file amended title within three days.

2. The petitioner has approached this court with the prayer that some directions may be issued to the respondents to conduct election of NGO Anjuman-e-Hayat-ul-Islam through Nazir of this court. He further sought the directions against the respondent No.3 (the then Administrator) to furnish day to day report of the affairs of the Anjuman-e-Hayat-ul-Islam. Certain cheques were received by him from the Ex-President Athar Ali Qureshi so he sought further directions that he may be allowed to deposit these cheques with the Nazir of this court. The Nazir of this court is present and he verified that in compliance of the court's order dated 19.03.2018, learned counsel for the petitioner deposited 47 cheques which were issued in the name of Anjuman-e-Hayat-ul-Islam (Respondent No.4) amounting to Rs. 70,000,000/- and the said cheques have been kept in the safe custody. Since the cheques were issued in the name of NGO, therefore, the same could not be deposited in any other account except the account of the respondent No.4, therefore, Nazir was not given any directions by the learned Division Bench of this court so he retained all post dated cheques in his safe custody. The date of the

last cheque is 25.06.2029 and due to efflux of time one cheque has expired according to Nazir. At this juncture, Athar Ali Qureshi, the then president of the respondent No.4 submitted that he has already filed two civil suits No. 120/2018 and 2048 of 2017 which are pending in which he sought the relief of cancellation of an agreement and aforesaid 47 cheques. The factum of pendency of these suits has not been denied by the learned counsel for the petitioner and the petitioner himself.

3. Earlier in this case, the Administrator was Anwar Hussain Siddiqui but vide order dated 22.05.2018 issued by Secretary to Government of Sindh, Social Welfare Department, Nawab Din, Administrative Officer of Social Welfare Department (HQ) has been appointed Administrator of the NGO Anjuman-e-Hayat-ul-Islam in pursuance of Section 9(2) of the Voluntary Social Welfare Agencies (Registration & Control) Ordinance, 1961 with the directions to manage the affairs of the Anjuman-e-Hayat-ul-Islam in addition to his own duties as Administrative Officer.

4. The learned counsel for the petitioner and the then President of the association both argued that there was some dispute regarding the membership of some members which were allegedly inducted in the association in violation of the byelaws of the respondent No.4 hence the election could not be conducted in time. In order to resolve this controversy and the complaints regarding the alleged illegalities committed while granting membership to some members, the Secretary to Government of Sindh vide order dated 24.07.2018

constituted an Inquiry Committee comprising following members.

1.	Ms. Sheema Arif.	Director General (H.Q), SWD	Chairman
2.	Mr.Muhammad Issa Memon.	Additional Secretary, SWD	Member
3.	Mr.Syed Muhammad Ali Shah.	Deputy Secretary, SWD	Member
4.	Mr.Abdul Samad Channa.	Director (A&A), SPU, SWD	Member
5.	Mr.Imdad Hussain Channa.	Deputy Director-VA.H.Q. Karachi	Member/Secretary.

5. The Inquiry Committee has been constituted to entertain and decide the complaints received from different members of the respondent No.4. The Committee has been directed to take notice of all complaints filed by the members and suggest action/measures to resolve the dispute amongst the members.

6. The Chairman of the Inquiry Committee Ms. Sheema Arif and one of the Members Imdad Hussain Channa are present and submit that at least they have conducted five sessions of the inquiry and recorded the statements of thirty Members and they request only for two weeks' time to complete and conclude the inquiry proceedings so that they may forward the inquiry report to the Secretary to the Government of Sindh, Social Welfare Department. At this juncture, petitioner Ibrahim Mamdani and the Ex-President Athar Ali Qureshi both jointly submitted that some directions may be issued to the Inquiry Committee to associate them in the inquiry on which the Chairman of the Inquiry Committee stated that they are already providing opportunity of hearing to the petitioner and the

Ex-President and will do this also before concluding inquiry proceedings.

7. The learned Addl. A.G. also produced before us a letter dated 17.08.2018 issued by Section Officer (C) for Secretary to Government of Sindh, Social Welfare Department which letter has been communicated to the Director General Audit, Karachi for conducting audit of the accounts of NGO Anjuman-e-Hayat-ul-Islam (Respondent No.4). The petitioner and the ex-president of the respondent No.4 both submit that no audit has been conducted in pursuance of this letter. The Director General Audit, Karachi is directed to conduct audit for five years commencing from 2012 to 2017 as he has been directed in the above letter. He will complete the audit within a period of one (01) month. The Accountant General Sindh shall also ensure that audit is completed within a period of one (01) month. All requisite documents/books of accounts shall be provided to the Director General Audit by the present Administrator Nawab Din on requisition issued by the Director General Audit in writing to him.

8. Since the affairs of the NGO are standstill for last many months and inquiry committee has also been constituted but the inquiry has not been completed. In this regard, we are of the view that inquiry cannot be allowed to continue for an unlimited period of time and there must be some end of it. The enquiry committee was constituted in the month of July, 2018 but the matter is still pending. The Chairman and Members of the Inquiry Committee requested two weeks more time to conclude the inquiry but in order to ensure that the inquiry is

completed within given time therefore to remain on safe side, we are allowing three weeks' time to the enquiry committee to complete the process positively. The inquiry report shall be submitted to the Secretary, Social Welfare Department. The inquiry in fact relates to the past affairs of the society in which the other members should not suffer and should not be frustrated from right of franchise to elect their new Managing Committee for the smooth and peaceful working of the society, therefore, immediately on completion of the inquiry, the Secretary, Social Welfare Department shall direct the present Administrator to conduct the election and the Administrator shall appoint the election commission after submitting report of the Inquiry Committee. The election shall be conducted within one (01) month from the conclusion of the inquiry proceedings and the Administrator will also associate the Nazir of this court for the purpose of holding election and also intimate the entire election process up to the finalization and declaration of result for the supervision of Nazir of this court. Nazir's fee shall be Rs. 50,000/- (rupees fifty thousand). The Petitioner Ibrahim Mamdani and Athar Ali Qureshi both voluntarily agreed to pay the Nazir's fees with equal proportion.

9. The Director General Audit shall complete the audit and submit the report to the Secretary, Social Welfare Department, Government of Sindh for necessary action if any required under the law. He will also submit the report to the Nazir of this court and Nazir shall also provide the copy of the audit report to the newly elected management. It is clarified that this audit report shall have its own independent consequences and it will not

affect the fresh elections of the association. So far as 47 cheques are concerned, one cheque was lapsed due to efflux of time but the facts remains that these cheques are in the name of Association. In the present dispute it would not be possible to deposit these cheques in the account of the association upon which learned counsel for the petitioner and the respondents also agreed. After taking charge by the newly elected management, the Nazir shall hand over 47 cheques to the newly elected President of the respondent No.4 on proper verification and identification. Since these cheques have already been challenged in two suits i.e. Suit No. 120/2018 and Suit No. 2048/2017 as stated by the then president Athar Ali Qureshi and the learned counsel for the petitioner, therefore, if plaintiff in that suits wants to move any proper application before the learned Single Judge for seeking any restraining order that is up to them and they are at liberty to move such application that will be decided by the learned Single Judge after notice to the all parties in accordance with law. At this juncture, Athar Ali Qureshi who deposited 47 cheques undertakes to revalidate the expired cheques and in this regard he will appear before the Nazir within five (05) days and revalidate the expired cheques to the satisfaction of the Nazir of this court. The Nazir will also ensure that at the time of handing over these cheques to the newly elected president of respondent No.4, all postdated cheques should be valid. The petition is disposed of in the above terms.

JUDGE

JUDGE