

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

C. P. No. D-7965 of 2022

C. P. No. D-28 of 2023

Date	Order with signature of Judge
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**C. P. No. D-7965 of 2022**

PRIORITY.

1. For orders on Misc. No.682/2023.
2. For orders on Misc. No.683/2023.
3. For orders on Misc. No.684/2023.
4. For hearing of Misc. No.33672/2022.
5. For hearing of main case.

**C. P. No. D-28 of 2023**

PRIORITY.

1. For orders on Office Objection.
2. For hearing of Misc. No.84/2023.
3. For hearing of main case.

11.01.2023.

Nehal Khan Lashari, Advocate for the Petitioner in C. P. No. D-7965 of 2022. Shahab Imam, Advocate for the Petitioner in C. P. No. D-28 of 2023. Rehan Kiyani, Advocate for the Intervener in C. P. No. D-7965 of 2022 (CMA No.682/2023). Hassan Akbar, Advocate General, Sindh alongwith Saifullah, Assistant Advocate General, Sindh alongwith Dr. Liaquat Ali Abro, Consultant Law to Chief Secretary, Government of Sindh, Altaf H. Sario, Additional Secretary (Services) and Bhuromal, Law Officer to Secretary Services, Government of Sindh. Abdullah Hanjrah and Sarmad Sarwar, Law Officers, Election Commission of Pakistan.

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The captioned Petitions essentially assail such transfers and postings as have been made by the Government of Sindh following the announcement of the Second Phase of the Local Bodies Elections in Karachi and Hyderabad/Thatta Divisions, without approval of the Election Commission of Pakistan (“**ECP**”), on the ground that the Notification dated 10.06.2022 issued by the ECP on the subject, as modified/superseded from time to time and presently covered by the subsequent Notification dated 25.11.2022, stipulates that no transfers/postings of the government officers and officials including those of Autonomous Bodies/Authorities shall be made after issuance of the election schedule without prior approval of the ECP till publication of the election results.

On 30.12.2022, the Senior Law Officer of the ECP had stated that the Sindh Government has made numerous transfers in contravention of the aforementioned stipulation, and the issue had been taken up by the ECP, but whilst certain transfers had been reversed, numerous others remained in the field. However, on 04.01.2023, a Statement was submitted to the effect that after announcement of the Election Schedule on 25.11.2022, all the postings and transfers in relation to posts concerned with election duty, whether directly or indirectly, had either been reversed or held in abeyance on the recommendation of the ECP. Copies of the various Notifications issued in that regard were also placed on record with the learned Advocate General, Sindh having undertaken that if any further posting or transfer were identified as have been made after the announcement, such posting and transfer would also either be reversed or held in abeyance, as the case may be. Today, in compliance of the Order made on the preceding date, the learned Advocate General, Sindh has placed on record certain documents under cover of a statement signed by Dr. Muhammad Sohail Rajput, Chief Secretary, Sindh (Respondent No.3), accompanied by his sworn affidavit. The relevant excerpt of the statement reads as follows:-

#### **STATEMENT**

- “1. That the Administrative Secretaries of the Departments of the Government of Sindh have given their Statements that all the transfers/ postings orders of officials/officers concerned with the Election duty with regard to the 2<sup>nd</sup> Phase of Local Government Elections, 2023 in Karachi and Hyderabad Divisions to be held on 15<sup>th</sup> January 2023 have been kept in abeyance, and they will not issue such orders till 15<sup>th</sup> January 2023, i.e. the specific date of holding of 2<sup>nd</sup> Phase of Local Government Elections, 2022 in Karachi and Hyderabad Divisions, (Copies annexed herewith).
2. That based upon the aforementioned Statements by the Administrative Secretaries of the Departments of the Government of Sindh, it is submitted that all transfers/postings orders of officers concerned with the Election duty, with regard to the 2<sup>nd</sup> Phase of Local Government Elections, 2023, in Karachi and Hyderabad Divisions, to be held on 15<sup>th</sup> January 2023, have been kept in abeyance, and further transfers/postings have been banned, till 15<sup>th</sup> January 2023, i.e. the specific date of holding of 2<sup>nd</sup> Phase of Local Government Elections, 2022 in Karachi and Hyderabad Divisions. Furthermore, in addition to the above, it is further submitted that in case any specific transfer/posting of an official if pointed out by the Election Commission of Pakistan to me, the same shall also be kept in abeyance.”

The learned Advocate General has also placed on record a Notification dated 10.01.2023, as reproduced hereunder: -

**“GOVERNMENT OF SINDH  
SERVICES, GENERAL ADMINISTRATION  
& COORDINATION DEPARTMENT**

Karachi, dated the 10<sup>th</sup> January, 2023

**NOTIFICATION**

No. SOV(SGA&CD)9-1/2023: In pursuance of the order dated 04.01.2023 passed by Honourable High Court of Sindh, Karachi in CP No. D-7965 of 2022 and No. D-28 of 2023 filed by Khadim Hussain versus Election Commission of Pakistan and others, the Notifications regarding transfers / postings of the Officers / officials of all grades / BPS of all the Departments, appointed as **District Retuning Officers / Assistant Returning Officers / Returning Officers** and the **officers / officials concerned with the election duty directly or indirectly with regard to conduct of the 2<sup>nd</sup> Phase of Local Government Elections, 2022 in Karachi and Hyderabad Divisions** are kept in abeyance till culmination of the Elections.

02. The notifications regarding transfers and postings of the officers / officials of all grades / BPS of all the Departments, appointed as **District Retuning Officers / Assistant Returning Officers / Returning Officers** and the **officers / officials concerned with the election duty directly or indirectly with regard to conduct of the 2<sup>nd</sup> Phase of Local Government Elections, 2022 in Karachi and Hyderabad Divisions**, made on their promotion to higher scales, are also kept in abeyance till culmination of the Elections.

03. The officers / officials directly or indirectly related to the election duties are directed to immediately join their respective previous places of postings and submit report to their Administrative Departments today i.e. 10.01.2023.

04. The Administrative Departments and their field establishment are directed to ensure compliance of this notification today i.e. 10.01.2023.

**II**

In pursuance of letter No. F.30(4)/2022-LEG-PEC(S) dated 13.12.2022 of the Provincial Election Commissioner, Sindh transfers and postings of officers / officials **concerned with the election duty directly or indirectly with regard to conduct of the 2<sup>nd</sup> Phase of Local Government Elections, 2022 in Karachi and Hyderabad Divisions** shall not be made till culmination of the elections.

02. The Notifications regarding transfers and postings of officers / officials of all grades / BPS of all the Departments, appointed as **District Retuning Officers / Assistant Returning Officers / Returning Officers** and the **officers / officials concerned with the election duty directly or indirectly with regard to conduct of the 2<sup>nd</sup> Phase of Local Government Elections, 2022 in Karachi and Hyderabad Divisions**, made after this Notification shall be deemed to be void till culmination of the Elections.

**DR. MUHAMMAD SOHAIL RAJPUT  
CHIEF SECRETARY, SINDH**

He submits that the charge of the relevant has thus been restored to the persons holding the same prior to the transfers being made, and such statement has also been corroborated by Mr. Altaf H. Sario, Additional Secretary (Services), Government of Sindh, who is present in Court.

At that juncture, learned counsel appearing on behalf of the Applicant/Intervener in C. P. No. D-7965 of 2022 submits that the transfer order in respect of the Applicant had been issued after announcement of the second phase of the election schedule, but is yet to be recalled despite the matter having been raised by the ECP. He invites attention to the copy of a letter dated 21.12.2022 addressed by the Provincial Election Commissioner, Sindh on the subject to the Secretary, Services, General Administration and Coordination Department, Government of Sindh, which has been presented in Court today under cover of a statement and is taken on record.

The learned Advocate General has received a copy of said statement and submits that the Government would examine the said letter of the Election Commissioner and undertakes that the matter would be addressed accordingly, and reiterates that if any further directions with regard to the transfer and posting of any particular functionary is issued by the ECP, the same would be implemented in letter and spirit without any undue delay.

In wake of the above, the Petitions stand disposed of in the foregoing terms along with the pending miscellaneous applications.

CHIEF JUSTICE

JUDGE

MUBASHIR