

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

C.P No. D-1293 of 2021

Present:

Ahmed Ali M. Shaikh, CJ
Yousuf Ali Sayeed, J

Khwaja Muhammad Salman.....Petitioner

Versus

Province of Sindh & othersRespondents

Mr. Muhammad Sohail Hassan, Advocate for the Petitioner.
Mr. Muhammad Nadeem Azim, Advocate for Respondents Nos.3 to
5.

Date of hearing : 10.10.2022

ORDER

YOUSUF ALI SAYEED, J. The Petitioner professes to be the son of the sponsor and founder member of the Respondent No.3 Foundation, and had preferred the captioned Petition so as to impugn the process for election of its Managing Committee for the year 2021-2022, as well as seek cancellation of a Wakf Deed said to have been registered on 05.04.2018, whereby an immovable property came to be vested with said Respondent.

The Petition proceeded on the assertion that the election for the aforementioned period was conducted in an illegal manner so as to install 10 selected persons in the governing body through bogus votes by way of a fraudulent members list, showing 66 persons as members when the real strength was merely 22. Furthermore, it was broadly alleged in somewhat vague terms that by prevailing upon the deceased father of the Petitioner, the Respondent Nos.4 and 5, succeeded in procuring the preparation

and execution of the Wakf Deed, with it being contended that the Petitioner never had any real intention of making any gift of the property that constitutes the subject matter thereof, and the Deed merely represented a paper transaction so as to fulfill certain requisites of law.

In that backdrop, it was prayed that the electoral process be declared to be illegal and unlawful and the previous managing committee of the Respondent No.3 be reinstated so as to conduct the election afresh, with the voter list having been used in the impugned election being declared to have been tampered, fake and bogus, and the Wakf Deed also be declared as unlawful, *void ab initio* and cancelled / revoked with immediate effect.

Having heard the arguments advanced and considered the matter, we are of the view that the substance of what is sought to be agitated essentially involves a dispute between private persons and raises disputed question of fact, which falls behind the ambit and purview of Article 199 of the Constitution. As such, we had found the Petition to be non-justiciable through a constitutional proceedings and had accordingly dismissed the same vide a short Order dictated in Court on 10.10.2022.

JUDGE

CHIEF JUSTICE