

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C. P. No. D – 1716 of 2024

Date	Order with Signature of Judge
------	-------------------------------

1. For hearing of CMA No.7766/2024.
2. For hearing of Main Case.
(Notice issued)

08.04.2024 :

Chaudhary Khalid Rahim Arain, Advocate for the Petitioner.
Ms. Naushaba Haq Solangi, A.A.G., Sindh along with
Zameer Ahmed Abbasi, Registrar Cooperative Societies.

Mr. Abdul Wahab Baloch and Mr. Ghulam Shabbir Babbar, Advocates will appear on behalf of Respondents No.7 and 11, respectively, by filing Vakalatnama in Branch.

Registrar Cooperative Societies is directed to justify the Order dated 02.04.2024 (the “Impugned Order”) which was issued appointing one person Kashif Mithal as Chairman and Suleman as Honorary Secretary. On a specific question put to him it was not denied that Kashif Mithal is not an officer working in the Registrar’s office but is a private person. Learned counsel for the Petitioner states that a private person cannot be appointed as an Administrator of a Society.

We have gone through the record.

It seems that the office of the Registrar Cooperative Societies (Respondent No.2) conducted an Audit of the Society (available in record), in its conclusion, time was granted to the Petitioner Society to make certain compliance and no gross irregularity is pointed out in the Audit Report, justifying the impugned action.

On a question as to the whether the annual elections of the Society have been held as per the present statutory framework, the learned counsel for the

Petitioner has referred to Page 427 being an Order dated 16.03.2024 issued by the Registrar's office appointing the Election Committee for holding the election of President and 1/3rd members, however it is noted that no date for the election has been given, but, it is stated that it will be held soon.

The impugned Order states that on a complaint of certain members the impugned order has been issued and which includes holding of an impartial election of the Society, search and seizure and to run day to day affairs of the Society. This last portion of the order, that is, to 'run day to day affairs of the Society' and that too by a private person who has been nominated as Chairman, in fact amounts to taking over of Society. This cannot be allowed in the present circumstances, inter alia, when election is going to be held under the supervision of Respondent(s).

Prima facie, nothing has been brought on record as to what are the complaints from the members of the Society and as to whether they necessitated such a drastic action to be taken. It is quite normal in a society for its members to have divergent views on how the Society should be managed. However, it cannot be the case that if the minority interest is divergent from the majority as represented on the Managing Committee, that either an inquiry or for that matter for supersession of the Society shall mandatorily take place. In our considered view, this is not the scheme of the Sindh Cooperative Societies Act, 2020 and the Rules framed thereunder. These statutory provisions are promulgated, in order to ensure that cooperative societies are run in a transparent manner, but this does not mean that it should be subject to unnecessary scrutiny by the officials causing its functioning impossible. In this regard we must also refer the well-known Judgments of the Supreme Court of Pakistan handed down in the Case of *Independent Newspapers Corporation (Pvt.) Ltd and another vs. Chairman Fourth Wage Board and Implementation Tribunal for Newspaper Employees, Government of Pakistan, Islamabad and 2 others* 1993 SCMR 1533 and *State*

Life Insurance Corporation and others vs. Jaffar Hussain and others 2009

CLD 610, holding, that the excessive use of lawful power is also unlawful.

In view of the above, we see no justification for issuance of the impugned Order dated 02.04.2024, which is set aside. This petition is accepted subject to the rider that the future elections of the Society will be held strictly in accordance with the provisions of the Sindh Cooperative Societies Act, 2020 and the Rules within the shortest possible time.

J U D G E

J U D G E

Nasir P.S.