

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-339 of 2025

(Munnawar Ali v Province of Sindh & others)

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Muhammad Karim Khan Agha

Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order: 27.1.2025

Mr. Ali Asadullah Bullo advocate for the petitioner

Adnan-ul-Karim Memon, J. – The petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic Pakistan, 1973, with the following prayer: -

- I. *Declare that the Impugned show cause notice dated 26.12.2024 and inquiry proceedings are illegal, in violation of the dicta laid down by the Supreme Court of Pakistan, and set aside the same.*
- II. *Direct the respondents to conduct a de-novo inquiry, allow the petitioner to participate in it, and pass appropriate orders in accordance with the law.*
- III. *Direct the respondents not to take any coercive action against the petitioner and should conduct themselves strictly under the law.*

2. Petitioner Munnawar Ali, is working as Senior clerk/Peshkar in the Sub-Registrar office Ghulsan-e-Iqbal–II, Karachi, Revenue Department of the Government of Sindh and challenges the validity of a show cause notice dated 26.12.2024 and disciplinary proceedings against him under Rule 4-A read with sub-rule (3) of Rule 5 of the Sindh Civil Servant (Efficiency & Discipline) Rules, 1973. He submits that the allegations of fraud, forgery, and tampering with manual and computerized property registration records in the office of Sub-Registrar office Jamshed Town-I Karachi are unfounded.

3. At the very outset, we inquired from learned counsel as to how the instant Petition is maintainable against the disciplinary proceedings initiated against the civil servant under Article 199 of the Constitution, which relates to the terms and conditions of his service and the outcome of the disciplinary proceedings has yet to come, and after its conclusion, he has the remedy under the law to assail the findings adversely affecting him, if any.

4. The counsel argues that the respondents have failed to follow their own binding mandatory and obligatory provisions of Sindh Civil Servants & Discipline) Rules 1973; that the respondents have malafidely proceeded against the petitioner without allowing him to prove his innocence or otherwise and confront the allegations in the inquiry proceedings thus every action taken is based on such unilateral show cause notice, which is

illegal and violates the law. He added that the impugned show cause notice has been issued maliciously and with sheer malafide and the same is in gross violation of principles of justice, a good conscience, and equity as such the same is liable to be declared as void and of no legal effect, as the petitioner has not been heard on the allegations; that the impugned inquiry/disciplinary proceedings initiated against the petitioner misconceived, unwarranted unlawful, illegal without lawful justification and nullity in the eyes of law. He lastly prayed for allowing the instant petition.

5. We have considered the arguments of the learned counsel for the petitioner on the maintainability of this petition under Article 199 of the Constitution.

6. This Court will limit its determination to whether the petitioner's challenge to the show cause notice/disciplinary proceedings is properly brought within the scope of its writ jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan and whether the petitioner, fundamental/service rights have been infringed in terms of Article 4, 25, 27 of the Constitution.

7. It is well settled that disciplinary proceedings fall within the ambit of expression terms and conditions of service of a civil servant, therefore, the jurisdiction of all other courts is barred by the provision of Sindh Service Tribunals Act, 1973 read with Article 212(2) of the Constitution. On the aforesaid proposition, we are fortified with the decision rendered by the Supreme Court in the case of *Ali Azhar Khan Baloch vs. the Province of Sindh* [2015 SCMR 456]. The Supreme Court in paragraphs 146 to 150 has decided the issue in hand no need for further deliberation on our part.

8. Progressing further on the issuance of show cause notice and disciplinary proceedings initiated against the petitioner on account of his alleged misconduct, as disclosed in the impugned show cause notice, a constitutional petition against such proceedings is not maintainable unless the notice/proceedings are illegal or lack jurisdiction. A show cause notice is the first step in a process, and it is not an adverse order under the service jurisprudence. Show cause notices provide a fair process for the alleged person to respond to allegations and explain his/her position. Courts generally refrain from interfering in every show cause notice through interim orders, as these proceedings have established procedures. Challenges to show cause notices are permissible, in cases, if the notice lacks jurisdiction, is barred by law, constitutes an abuse of process, or is

issued by an authority without jurisdiction (coram non-judice) as held in the case of Commissioner Inland Revenue and others v. Jahangir Khan Tareen and others (2022 SCMR 92).

9. Additionally, a charge sheet or show-cause notice alone does not constitute an adverse order that infringes upon the rights of civil/public servants as portrayed. This is because the authority may drop proceedings after considering the response. Writs typically lie when rights are infringed. Since a show-cause notice does not inherently infringe on the rights of civil/public servants, courts should be cautious in issuing interim orders that interfere with the statutory authority of the concerned body to probe the allegations and decide the matter finally. A general principle in law is that disciplinary proceedings against a civil/public servant cannot be challenged through a writ petition, as the appropriate forum to contest such proceedings is usually the Service Tribunal, which has exclusive jurisdiction over matters related to terms and conditions of service, including disciplinary issues as discussed in the preceding paragraphs.

10. We may observe here that, indeed the writ jurisdiction of this Court is not meant to be exercised to restrain the competent authority from taking action under law against a civil/public servant against whom prima facie evidence showing his/her involvement in the serious charges of misconduct was/is available, for the reason that any such direction would be disharmonious to the principle of good governance and canon of service discipline, rather causing undue interference to hamper the smooth functioning of the departmental authorities, more particularly in the respondent revenue department where the allegations of fraud and forgery are under probe.

11. Keeping in view the above-mentioned facts and circumstances of the case, we do not see any infringement of the right of the Petitioner under the service as well as the constitution, which could be called into question by way of Writ Petition under Article 199 of the constitution. Therefore, this Court finds no ground to interfere with the impugned Show Cause Notice/ disciplinary proceedings under its Constitutional jurisdiction.

12. This being the legal position of the case, we find no merits in the instant petition, which is dismissed accordingly with no order as to costs, leaving the petitioner to avail the remedy against the outcome of the disciplinary proceedings conducted by the respondents, as provided under the law, which shall be concluded, if any, within two months from today and the petitioner shall be provided a meaningful hearing under law. The copy of this order shall be transmitted to the Chief Secretary Sindh, who

shall ensure that the office of the sub-registrar in Sindh shall Act under the law and if any sub-registrar or his sub-ordinate is found indulged in such sort of fraud and forgery in the record, they shall be screened out and prompt disciplinary proceedings shall be initiated against them and culminated to its logical conclusion, without loss of time, as there are so many complaints against them including Mukhtiarkars/Revenue Officers

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JUDGE**JUDGE**