

ORDER SHEET

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

C.P No.D-23 of 2025

[Kewal Ram vs. Government of Sindh and others]

Date	Order with signature of the Judge
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1. For orders on office objections
2. For orders on M.A No.116/2025 (Exemption)
3. For orders on M.A No.117/2025 (Stay)
4. For hearing of main case.

29.01.2025

Mr.Abdul Haleem Jamali, Advocate for the Petitioner

Through this writ petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as "the Constitution"), the petitioner seeks relief to declare the Minutes of Meeting dated 24.10.2024 as an afterthought and false and to set aside the termination order/letter dated 08.11.2024 regarding the termination of the Partnership Contract of the school, as being illegal, unlawful, and unjustified, for allegedly being without due notice to the petitioner.

2. Heard and perused the record. In this case, the petitioner has argued that the termination of his school's contract by the Sindh Education Foundation (SEF) was done without prior notice, which he asserts is unlawful. However, an examination of the minutes from the impugned meeting reveals that a thorough discussion occurred wherein both parties, the petitioner and the complainant, were given an opportunity to present their respective positions. After considering the arguments from both sides, the Managing Director of SEF decided to discontinue the contract. This negates the petitioner's claim that the termination was abrupt and without notice. Further scrutinizing the Partnership Contract annexed to the petition, several key provisions that significantly affect the interpretation of the case come to light. Article 10 of the contract deals explicitly with Dispute Resolution and Arbitration. According to Article 10.1, if any dispute or conflict arises out of the contract, it should first be referred to the Managing Director of the Foundation for an amicable settlement, following a formal procedure laid out by SEF. This clause establishes that negotiation and amicable resolution are the first course of action in the event of a disagreement. Should the dispute not be settled through these means, Article 10.2

provides that the unresolved matter shall be referred to an Arbitrator who will act in accordance with the provisions of the Arbitration Act, 1940 and deliver an award. This clause emphasizes the importance of arbitration in resolving disputes and highlights the procedural steps needed before seeking judicial intervention. Article 10.3 further delineates jurisdictional boundaries by specifying that the courts at Karachi shall have exclusive jurisdiction to adjudicate disputes between the Foundation and the Partner (the petitioner in this case) during the tenure of the contract or even after its expiry. This provision is pivotal as it delineates the legal authority and forum for adjudicating disputes arising under the contract, providing clarity and certainty regarding jurisdiction. Moreover, Article 14 of the Partnership Contract Agreement specifically addresses the conditions under which SEF may terminate the contract. It provides that the Foundation has the right to immediately terminate the contract without prior notice in case of a breach of Articles 12.1.6 and 12.1.10. This provision empowers the Foundation to take decisive action in instances of specific breaches, thereby safeguarding its interests and maintaining the integrity of the contractual relationship.

3. When discussing the potential remedies available, it is essential to consider that the enforcement of contractual stipulations and obligations, as well as the infringement of any condition of such a contract, typically entitles the aggrieved party to seek an alternative remedy for breach of contract before a court of plenary jurisdiction. This implies that the legal recourse available for contractual disputes is within the realm of civil litigation, where the court has the authority to adjudicate and provide appropriate relief. It is also crucial to note that the nature of the relief sought in this context does not implicate fundamental rights. Consequently, the petitioner cannot argue that his fundamental rights have been violated, thereby conferring upon him the right to enforce the same under Article 199 of the Constitution. The jurisdiction of the High Court, in this instance, is primarily invoked when the rights are based on statutory provisions, laws, or rules framed thereunder or when obligations or duties are vested in a public functionary or a constitutional body performing functions in relation to the affairs of the federation, a province, or a legal authority.

4. In summary, even though contractual rights and obligations might be enforced within constitutional jurisdiction, this enforcement is contingent upon the absence of an adequate alternative remedy. In this case, the petitioner has an alternate remedy available under the contractual provisions, particularly through arbitration, as outlined in the Partnership Contract. Therefore, the claim that his contract was terminated without notice is not supported by the facts, and the appropriate avenue for dispute resolution lies within the framework provided by the contract itself. Furthermore, it is pertinent to highlight that this matter involves disputed facts, further complicating its adjudication through a constitutional petition. Constitutional petitions are typically reserved for questions of law and violations of fundamental rights rather than factual disputes. When facts are in dispute, as in this case, the proper forum for resolving these issues is arbitration or civil litigation, where evidence can be examined and witnesses can be cross-examined. This underscores the importance of adhering to the dispute resolution mechanism outlined in the Partnership Contract, ensuring that the matter is addressed through the appropriate legal channels.

5. For the foregoing reasons, the writ petition is **dismissed** in *limine* along with all pending miscellaneous applications.

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