

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP D 5382 of 2023

Date	Order with Signature of Judge(s)
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Priority

- 1. For hearing of CMA No.24783/2023
- 2. For hearing of main case.

23-04-2025

Messrs. K.A Wahab and Khilji Bilal Aziz, advocates for petitioner
Mr. Mohsin Khan, advocate for respondents No.1 to 4.
Mr. Nadir Khan Burdi, advocate for respondent No.5.
Mr. Sandeep Malani, Assistant Advocate General.

This petition, pending since 2023, has been filed seeking following relief:

- i. *That action of the Respondent Nos.1 to 4 to permit the Respondent No.5 to establish a Pharmacy in the premises of the Respondent No.3 and handing over a shop to him in this regard is illegal without any lawful authority with malafide intention and ulterior and to oblige their favorite i.e Respondent No.5, hence liable to be struck of.*
- ii. *Be declare that the Petitioner is entitle to establish a Pharmacy in the premises of the Respondent No.3 in said Shop as he had applied for the same first.*
- II. *To direct the Respondent No.1 to 4 to withdraw their permit ion granted to the Respondent No.5 to establish a Pharmacy in the premises of the Respondent No.3 and grant permission to the Petitioner and restrain to the Respondent No.5 to run the Pak United Pharmacy and vacate the same.*
- III. *Permanently restrain the respondent No.5 to run United Pharmacy in the premises of the Respondent No.3...*

On two previous successive dates the petitioner’s counsel was absent and on the last date learned counsel was confronted as to maintainability hereof, *inter alia*, as to how a plea for a negative declaration be entertained in the present circumstances; how could a *prima facie* private dispute be agitated in writ jurisdiction; how could the issue of primacy / priority *inter se* between private parties with respect to regulatory activity be determined in writ jurisdiction; why recourse had been sought to writ jurisdiction while abjuring proceedings before the relevant fora; how could interference in public duties be sanctioned in writ jurisdiction in *prima facie* incongruence with section 56 of the Specific Relief Act; and last but not least how could a writ be issued to a private person.

Learned counsel had remained unable to satisfy the court on either count on the last date and same was the case today. Therefore, this petition is found to be misconceived, hence, dismissed along with pending applications.

Judge
Judge