

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C. P. No.D-1556 of 2025

(Sufyan Rasheed & Others v. Province of Sindh & Others)

DATE:	ORDER WITH SIGNATURE(S) OF JUDGE(S)
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- 1. For Orders on CMA No. 7792 / 2025 (Urgent App)
- 2. For Orders on Office Objections No. 1, 3, 4, 14, 22, 23 & 28
- 3. For Orders on CMA No. 7793 / 2025 (Exemption App)
- 4. For Orders on CMA No. 7794 / 2025 (Stay App)
- 5. For hearing of Main Case

22-4-2025

Mr. Haider Imam Rizvi, Advocate for Petitioners

- 1. The Petitioners, claiming to be members of the *PIDC Multipurpose Cooperative Housing Society Ltd* ("**Society**"), have instituted the present Petition on 21.4.2025, impugning a series of actions undertaken by the Society a while back. These actions primarily include: (i) the purported amendments dated 27.12.2002 made to the Society's byelaws (see Prayer Clause (c)), and (ii) the elections held on 24.11.2024 ("**Impugned Elections**") (see Prayer Clause (a)).
- 2. Learned Counsel for Petitioners contended that the Impugned Elections are unlawful, as they were required to be conducted under the supervision of the Nazir of this Court, pursuant to the order dated 12.7.2018 issued by a Single Judge in Suit No.482/2015 (**at Court File Pg. 145**). Instead, Counsel alleged, the elections were conducted surreptitiously and unsupervised, in collusion with the Department and the hand-picked newly elected officials.
- 3. To substantiate this claim, the Counsel walked the Court through various orders passed in related legal proceedings, including: Single Judge's interlocutory order dated 10.11.2018 in JM No.61/2018 (**at Court File Pg. 151**), whereby the order dated 12.7.2018 (passed in Suit No.482/2015) was suspended till disposal of the JM¹; the Division Bench's short order dated 22.2.2024 dismissing the HCA No.465/2018, along with detailed reasons issued on 26.2.2024 (**at Court File Pg. 169**), which modified the order dated

¹ Upon inquiry, Counsel for Petitioners expressed ignorance regarding any final order passed in the said JM. When the Court directed the Office to produce the files of the JM and the connected Suit, it was informed that the same have been transmitted to the District Courts pursuant to the *Sindh Civil Courts (Amendment) Act, 2025* (whereby all suits and proceedings pending before the High Court in its original civil jurisdiction prior to the commencement of the said Act stand transferred to the relevant District Courts)

10.11.2018 (passed in JM No.61/2018) and directed the holding of Society's elections with the inclusion of the 83 applicants who had filed JM No.61/2018. Counsel asserted that the cumulative effect of these orders confirms that the elections were to be conducted under the Nazir's supervision, as originally directed by the Single Judge in Suit No.482/2015 (vide order dated 12.7.2018).

4. An examination of the detailed reasons (dated 26.2.2024) recorded by the Division Bench (particularly in paragraphs 7 & 8), makes it abundantly clear that the Bench had allowed the 83 applicants to participate in the Society's elections in light of the amendments dated 27.12.2002 made to the Society's Byelaws. In doing so, the Division Bench effectively recognized and acted upon the validity of those very amendments. It is these same amendments which the Petitioners now challenge in the present Petition, branding them as fraudulent, fictitious, and non-existent.
5. Such an exercise – which involves a challenge to the validity of a judicial order and an inquiry into allegations of forgery and fabrication of the Society's Byelaws, necessitating evidentiary assessment and adjudication of disputed questions of fact – cannot appropriately be undertaken within the scope of constitutional jurisdiction under Article 199 of the *Constitution of Pakistan, 1973*. We cannot, while exercising writ jurisdiction, re-open or sit in appeal over the considered view of a co-equal Division Bench rendered in judicial proceedings. Nor can we, within this limited jurisdiction, engage in resolution of factual disputes – particularly allegations of fraud and forgery – which require the framing of issues and the recording of evidence through a civil trial. The appropriate forum for such a determination would be a civil court of competent jurisdiction.
6. Thus, if the Petitioners sought to impugn the validity of the said amendments or to challenge the legitimacy of the participation of the 83 individuals in the Society's elections, their proper course of action would have been to approach the appropriate forum, rather than invoking the extraordinary jurisdiction of this Court.
7. Similarly, a perusal of the Petition (in particular paragraphs 5, 6, 8 & 11) reveal that the principal ground on which the elections held on 24.11.2024 are challenged is the alleged violation of the Division Bench's aforesaid order (passed in HCA No.465/2018 allowing the holding of elections under the supervision of the Nazir), which, according to the Petitioners were never held under the Nazir's supervision, constituting a contempt of the said order. If such is indeed the grievance of the Petitioners, the appropriate legal recourse would have been to file a contempt application before the said

Bench in the aforesaid HCA in a timely manner, rather than initiating a fresh constitutional petition.

8. A notable feature of this Petition is that the Petitioners have, to a significant extent, characterized all other litigations instituted by persons other than them as either unlawful, collusive, or otherwise tainted. Reference in this regard is made to various legal proceedings (such as CP No.D-1654/2024, CP No.D-2018/2024, Suit No.Nil/2025), enumerated in paragraphs 6, 7 and 9 of the Petition (which are in addition to the litigations mentioned in the preceding paragraphs of this Order). However, the Petitioners cannot be permitted to bide their time and, at a moment of their own choosing and convenience, accumulate and consolidate a multitude of grievances arising from various independent proceedings into a single constitutional petition.
9. If the Petitioners have remained passive or indifferent in asserting their rights at the relevant time in appropriate forums, they cannot now seek to bypass procedural discipline and resurrect those grievances under the broad umbrella of constitutional jurisdiction. The law does not permit litigants to circumvent due process or established avenues of redress. Such an approach undermines the finality of legal proceedings and the orderly administration of justice. Constitutional jurisdiction cannot be used as a substitute for appeals, revisions, or independent legal remedies which the Petitioners may have failed to pursue in a timely and diligent manner.
10. For the foregoing reasons, this Petition is **dismissed in limine**.

JUDGE

JUDGE