

IN THE HIGH COURT OF SINDH KARACHI

Before:

Justice Muhammad Saleem Jessar
Justice Nisar Ahmed Bhanbhro

CP No.D-6010 of 2025

(Syed Kamran Ali Shah and others v. Province of Sindh and 04 others)

Mr. Jehangir Kalhoro, Advocate for the Petitioners

Ms. Sana Abid, Advocate for Respondent No.5

M/s. Hakim Ali Shaikh Additional Advocate General and Sagheer Ahmed Abbasi Assistant Advocate General, , Sindh a/w Dr. Asif Ali Korai, ACR, Kemari and Ms. Sanaullah Dharejo, AO.

Date of hearing and order: **03.02.2026**

JUDGMENT

NISAR AHMED BHANBHRO, J. Through this petition, the petitioners claim following relief(s):-

"i. Declare that the impugned recommendations made by the District Recruitment Committee, Keamari, on 28-10-2024, to the extent of candidates appointed in TMC Baldia Town who are non-residents of Baldia Town, are illegal, void, and without lawful authority.

ii. Direct the Respondents to reconsider and fill the Baldia Town DAPS vacancies strictly from among eligible differently-abled residents of Baldia Town, in accordance with the 5% quota and the Sukkur Bench order dated 05-08-2025.

iii. Direct the Deputy Commissioner, Keamari, to verify domicile and disability certificates of all appointees under DAPS and to cancel any appointments made in violation of the quota policy or local residence requirement.

iv. Direct the Respondents to submit a compliance report before this Hon'ble Court showing implementation of DAPS in District Keaman in a transparent manner."

2. Learned counsel for the petitioners argued that the petitioners are legally entitled to appointment under the Differently-Abled Persons Quota in terms of the Sindh Empowerment of Persons with Disabilities Act, 2018, read with the policy notified vide Notification dated 05-07-2022, whereby a mandatory five percent quota has been reserved for differently-abled persons in all public departments of the Province of Sindh. He submitted that this Court, Sukkur Bench, through order dated 05-08-2025 (2025 SHC

SUK 2032), has already directed all Deputy Commissioners to strictly implement the said quota without delay, notwithstanding any prior stays, save by order of the Hon'ble Supreme Court. It was further contended that pursuant to the said directions, the Deputy Commissioner, District Keamari, convened a meeting of the District Recruitment Committee on 28-10-2024, wherein, as reflected in paragraph-5 of the minutes, twenty-one candidates were unanimously recommended for appointment against BPS-01 to BPS-04 posts in various departments. Learned counsel further submitted that although candidates at serial Nos. 10 to 17 were shown as selected for Town Municipal Corporation, Baldia Town, upon verification it transpired that, except one candidate, none were bona fide residents of Baldia Town, District Keamari. He argued that the petitioners, being genuine differently-abled residents of Baldia Town, were entitled in law and equity to be considered for such local posts, which were meant exclusively for residents of the concerned jurisdiction. According to learned counsel, the impugned selection was made in violation of transparency, fairness and local representation, resulting in deprivation of the petitioners' constitutional and statutory rights. He, therefore, prayed that the petition be allowed.

3. Learned Additional Advocate General, assisted by learned counsel for respondent No.5, submitted that the registration of the petitioners as differently-abled persons with the Sindh Persons with Disabilities Protection Authority is not in dispute. He contended, however, that mere eligibility under the Differently-Abled Persons Quota does not create any automatic or vested right to appointment, which remains subject to availability of vacancies and the lawful administrative process of respondent No.5 within its territorial jurisdiction. It was further argued that the existence of a five percent quota under the relevant law and policy is also not disputed and that TMC Baldia Town is fully cognizant of the order passed by this Court, Sukkur Bench, dated 05-08-2025, directing strict implementation of the said quota. Learned AAG further submitted that pursuant thereto, the Deputy Commissioner, District Keamari, convened a meeting of the District Recruitment Committee on 28-10-2024 and approved twenty-one candidates for appointment in various departments. He candidly acknowledged that most of the candidates at serial Nos. 10 to 17, except Mr. Fazal Jamal at serial No.14, are not bona fide residents of Baldia Town. He maintained that the answering respondent has consistently followed the administrative practice of giving preference to genuine local residents for appointments within Baldia Town and would continue to do so. According to learned AAG, the

petitioners themselves are bona fide residents of Baldia Town and their applications, already available on record, shall be considered strictly in accordance with law and the respondent's established procedure. He asserted that while the list forwarded by the Deputy Commissioner was duly taken into consideration, the respondent has acted lawfully, fairly and transparently within its territorial jurisdiction, with priority to local differently-abled persons.

4. Heard arguments of the parties and perused the material available on record.

5. In identical situation, Division Bench of this Court comprising of both of us (*Mr. Justice Muhammad Saleem Jessar & Mr. Justice Nisar Ahmed Bhanbhro*) had passed following orders in CP No.D-78 of 2022 & others:

“i. The DEPWD shall immediately establish “PWD Fund” to carry out the purposes of this Act.

iii. The DEPWD shall send a request to receive grants from Federal, provincial and other institutions for the PWD Fund and shall ensure that sufficient funds were available within a period of next three months. The finance department government of Sindh shall extend full cooperation to the DEPWD for generation of funds.

iv. The DEPWD shall immediately establish Special Employment Exchange and Portal in terms of Section 11 of the Act in each district of the province.

v. The DEPWD shall register the PWDs on the Employment Exchange and Portal, in a separate manner, based upon the academic qualification of PWD, ratio of disability and the capacity to perform duty in the particular field. The DEPWD shall ensure the registration of vagrants and take efforts to curb vagrancy in the province of Sindh, by removing all the beggars from public places to shelter homes, where they shall be provided facilities of living. The vagrants shall be encouraged to contribute to the society with their skills of art.

vi. The DEPWD shall call upon all government departments to furnish report regarding the working strength of employees,

and ratio of five percent quota of PWDs and the number of PWDs employed by the department. Administrative Secretaries of all the departments of Government of Sindh shall ensure to submit such details to DEPWD within a period of two months from the date of order.

vii. The DEPWD shall call upon all private establishments to furnish report regarding the working strength of total workforce employed, with ratio of five percent quota of PWDs and number of PWDs employed. All the Public and Private Establishments shall be under an obligation to submit such report to the DEPWD within a period of two months from the date of order.

viii. All the Municipal Corporations viz. Karachi, Hyderabad, Sukkur, Larkano, Nawabshah (Shaheed Benazirabad), Mirpurkhas, all the Development Authorities viz. Karachi Development Authority, Hyderabad Development Authority, Malir Development Authority, Sehwan Development Authority, Layari Development Authority, Karachi Water and Sewerage Corporation, Water And Sewerage Authority Hyderabad, all the Municipal Committees, Town Committees, District Councils shall furnish a list of the working strength of the employees presently working and the details of the PWDs employed against such strength to the DEPWD within a period of two months from today.

ix. All the Town Committees in the province of Sindh, where the working strength of the employees is twenty or more shall furnish a list of the total employees working and the details of the PWDs employed against such strength to the DEPWD within a period of two months from today.

x. The Universities public and private in the province of Sindh shall furnish a list of the working strength of the employees and the details of the PWDs employed against such strength to the DEPWD within a period of two months from today. The university administration shall also devise a policy for accommodation of the PWDs in different cadres of service within a period of three months from today.

xi. The DEPWD shall examine the details furnished by the departments, autonomous bodies, corporations and private establishments. The departments shall ensure that all the departments, autonomous bodies and private establishments were housing the five percent PWD under employment. The Departments, autonomous bodies wherein the working strength of the PWDs is less than five percent, the DEPWD shall refer the case of PWDs for appointment against PWD quota. In case any establishment (private) refuses to employ PWD for any of the reasons, the said establishment shall be called upon to pay an amount equal to the salary of the employees which would have been paid to the employees if appointed against PWD quota. Such amount so received shall be deposited in PWD funds.

xii. The DEPWD shall ensure that all the PWDs who can seek job and perform duties are engaged in public and private establishments against the positions which do not call for any competitive process within a period of three months from today in accordance with laws and rules. In case any establishment shows its inadvertence and reluctance to comply with the directions of DEPWD the penal action as provided under the Act shall be taken against the said establishment.

xiii. If any PWD is not capable of doing any work and he cannot be given employment for any of the reasons of physical impairment or mental disorder, the DEPWD shall make arrangements for payment of disability allowance and unemployment allowance besides the other allowances provided under sub-Section 3 of the Section 12 of the Act to the said PWDs from the PWD Fund on monthly basis.

xiv. The job positions which are required to be filled through competitive process, the policy for recruitment against the said positions shall not be changed, merit shall not be compromised in any case and recruitment threshold for the competitive positions shall remain unchanged.

xv. The DEPWD shall ensure that no PWD in province of Sindh remains unemployed, in case any of the PWD cannot be

employed for any of the reasons, the said PWDs shall be paid disability allowance and unemployment allowance which shall not be less than the minimum wages payable under the Wages Act.

6. Since the petitioners are differently-abled persons and under Sections 11 & 12 of the Sindh Empowerment of Persons with Disabilities Act, 2018, the respondents are under obligation to accommodate the petitioners to the extent of five percent (5%) quota.

7. This petition is, therefore, allowed. The respondents are directed to consider the case of the petitioners for appointment strictly in accordance with the law by following codal formalities within a period of three (03) months of the date of this order.

The office is directed to send a copy of this order to Respondents No.2, 3 and 4 for compliance.

JUDGE

JUDGE
HEAD OF CONST. BENHCES

Nadir*