

# IN HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

**C.P No.D-596 of 2025**

[Abdul Aziz v. Province of Sindh & Others]

**Before:**

**Mr. Justice Arbab Ali Hakro**

**Mr. Justice Riazat Ali Sahar**

Petitioner: Abdul Aziz through Mr. Irfan Ali Khaskheli, Advocate.

Respondents: Province of Sindh and others through Mrs. Erum Gul, Assistant Advocate General Sindh.

Date of Hearing : **27.01.2026**

Date of Decision : **27.01.2026**

## **JUDGMENT**

**RIAZAT ALI SAHAR J:** - Through this Judgment, we intend to dispose of captioned petition filed by the petitioner under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with prayers:-

- (a) That this Honorable Court may be pleased to direct the respondents No. 2 and 2 immediately release the pending funds OZT shares of U.C Johi II from September 2024 to till now along with applicable allowances.*
- (b) That this Honorable Court may be pleased to declare that any further delay in funds payment will result in of court proceedings against the contempt responsible*
- (c) That this Honorable Court may be pleased to direct the respondent No. 2 that union council Johi II which was unlawfully/illegally ceased/removed from the list of UCs of District Dadu, due to political victimization same may be restored as union council Johi II.*
- (d) That this Honorable Court may be pleased to direct the respondents to ensure timely payment of funds OZT shares in future and submits the report explaining the reasons for delay.*
- (e) Any other relief which the Honorable Court deems fit and proper in view of the above fact of Petitioner and in the interest of justice.*

2. The petitioner, an elected Chairman of Union Council Johi-II, District Dadu, in his petition has stated that his Union Council had been regularly receiving its Octroi Zila Tax (“OZT”) share through its bank account; however, since October 2024, the Finance Department has allegedly discontinued the release of such funds without lawful justification. He has stated that an amount of Rs.3,619,170/- standing in the account of the Union Council was reversed and transferred to the treasury on official instructions, thereby disabling the functioning of the Council. The petitioner stated that despite repeated representations to the Finance and Local Government Departments and other authorities, no redress has been afforded. He has further stated that the stoppage of funds has resulted in non-payment of salaries to employees and suspension of essential municipal services including sanitation and public health measures. The petitioner terms the action as politically motivated and in violation of Articles 9, 14 and 25 of the Constitution. He also stated that the exclusion of Union Council Johi-II from a subsequent list of Union Councils for release of OZT funds, contending that such omission amounts to unlawful alteration contrary to Section 17 of the Sindh Local Government Act, 2013; hence, the petitioner has sought directions for restoration and release of funds and for continuation of future allocations.

3. Pursuant to notice, Respondent No.3 filed comments wherein it is stated that upon receipt of complaints from residents of Union Councils Johi-II, Phulji Village and Pir Mashaikh regarding alleged misuse of public funds, the Finance Department withheld further releases and sought clarification from the Local Government Department. Queries were raised concerning compliance with Section 13 of the Public Finance Management Act, 2020, enquiry proceedings under Section 91 of the Sindh Local Government Act, 2013 and details of establishment and expenditures. The Local Government Department subsequently referred the matter to the Provincial Local Government Commission for Special Audit under Section 120 (c) of the Act for

the period from 2023 onwards. It is also stated that further action shall be taken strictly in accordance with law upon receipt of audit findings and recommendations.

4. Learned counsel for the petitioner contends that the abrupt stoppage of OZT funds, without prior notice or lawful proceedings, is arbitrary, *mala fide* and in violation of constitutional guarantees. He contends that no lawful order under the Sindh Local Government Act, 2013 has been passed for alteration or cessation of the Union Council's status, nor has any misconduct been established through due process. He further contends that withholding of funds has paralyzed essential civic functions and deprived employees of salaries. The learned counsel further contends that the petitioner, being an elected representative, is an aggrieved person entitled to invoke constitutional jurisdiction for enforcement of legal and constitutional rights.

5. Learned A.A.G. Sindh contends that the petition is not maintainable as it concerns internal financial and administrative affairs of the Government. He contends that release of OZT funds was withheld due to complaints of alleged misuse and the matter has been referred for Special Audit under Section 120 (c) of the Sindh Local Government Act, 2013. He contends that the Finance Department acted within its lawful authority and in accordance with the Public Finance Management Act, 2020. According to learned A.A.G. Sindh, no constitutional or fundamental right of the petitioner has been infringed; therefore, no direction can be issued in constitutional jurisdiction, particularly when statutory remedies are available.

6. After hearing learned counsel for the petitioner and perusing the record as well as the comments filed on behalf of Respondent No.3, it appears that the controversy revolves around withholding of OZT funds pending clarification and special audit proceedings initiated by the competent authorities. In this regard, learned counsel for the petitioner was confronted with a query

regarding the maintainability of the instant petition, particularly when the matter relates to internal administrative and financial management between departments of the Government and the petitioner himself is serving as Chairman of the concerned Union Council. We have observed that issuance of directions in respect of financial scrutiny, audit proceedings and release of funds, especially where allegations of misuse are under inquiry, *prima facie* falls within the executive domain. The response furnished by the learned counsel did not satisfactorily demonstrate how constitutional jurisdiction under Article 199 could be invoked in matters involving internal departmental correspondence, audit processes and administrative oversight prescribed under the relevant statutes.

7. The perusal of material placed before us reflects that complaints regarding alleged misuse of funds were received, whereupon the Finance Department sought clarification from the Administrative Department and raised statutory queries under the Public Finance Management Act, 2020 and the Sindh Local Government Act, 2013. The matter has subsequently been referred to the Provincial Local Government Commission for Special Audit under Section 120 (c) of the Sindh Local Government Act, 2013. The record, therefore, demonstrates that the issue is presently under consideration of the competent statutory forums. The withholding of funds, in the given circumstances, cannot be termed as an outright cessation or abolition of the Union Council; rather, it is an interim administrative measure pending audit and verification. We feel that questions pertaining to financial propriety, regularity of expenditure and compliance with statutory provisions squarely fall within the domain of the executive and statutory authorities constituted under the relevant laws.

8. It is also pertinent to observe that the relief sought by the petitioner essentially requires this Court to command immediate release of public funds and to supervise the manner in which budgetary allocations are to be disbursed by the Finance Department. Such directions would necessarily involve the Court

entering into questions of financial prioritisation, verification of accounts, and administrative satisfaction regarding utilisation of public money. These are matters, which, by their very nature, fall within the exclusive competence of the executive authorities and are ill-suited for adjudication in constitutional jurisdiction, which is primarily concerned with enforcement of legal rights rather than management of fiscal administration.

9. Furthermore, the record does not reflect that any final or penal action has been taken against the petitioner or the Union Council. What has been demonstrated is merely a temporary withholding of further releases pending scrutiny and special audit. Interim administrative restraint, adopted to safeguard public exchequer during enquiry proceedings, cannot be equated with deprivation of a vested right. It is a settled principle that where the State acts to protect public funds through statutory oversight mechanisms, such action carries a presumption of regularity unless mala fides or patent illegality are specifically established, which, in the present case, has not been substantiated through any cogent material. It may also be emphasized that public monies, including OZT shares, are not private entitlements but are held in trust for the benefit of the community. Their utilization is therefore subject to strict accountability and transparency. The statutory scheme of the Sindh Local Government Act, 2013 and the Public Finance Management Act, 2020 clearly envisages audit, inspection and financial control by competent authorities. The petitioner, being an elected Chairman, is equally bound by these controls. Invocation of constitutional jurisdiction to circumvent these safeguards would undermine the very system of financial discipline contemplated by the legislature.

10. Another aspect which cannot be overlooked is that constitutional jurisdiction is discretionary and equitable in nature. Even where some grievance is shown, interference is declined where the dispute involves disputed facts requiring enquiry, verification of accounts, or evidence. Allegations relating to misuse or irregular

expenditure necessarily demand factual determination by specialized forums such as audit authorities and departmental commissions. Such factual controversies cannot conveniently be adjudicated on affidavits in writ proceedings. It is equally well-settled that Article 199 is not intended to serve as a substitute for departmental processes or to short-circuit statutory proceedings already set in motion. Premature intervention at this stage would not only frustrate the ongoing audit but may also create an anomalous situation whereby judicial orders pre-empt the findings of the competent forum. Judicial restraint, therefore, warrants that the statutory mechanism be allowed to reach its logical conclusion before any constitutional challenge is entertained.

11. It is settled law that constitutional jurisdiction under Article 199 of the Constitution is not ordinarily invoked in matters involving internal administrative functioning, particularly where adequate statutory mechanisms exist for redressal. The petitioner, being Chairman of the Union Council, is part of the local government framework established under statute and subject to financial discipline, audit and oversight mechanisms prescribed therein. The dispute essentially concerns allocation, scrutiny and release of public funds, the matters which are administrative in nature and regulated by statutory procedure. The contention regarding violation of fundamental rights has been raised in general terms; however, no direct or specific infringement attributable to a patently unlawful act has been demonstrated. The stoppage of funds pending audit, especially in light of complaints and ongoing proceedings, cannot *ipso facto* be equated with violation of Articles 9, 14 or 25 of the Constitution. Likewise, the alleged omission from a funding list does not, at this stage, establish alteration of territorial limits or cessation of the Union Council within the meaning of Section 17 of the Sindh Local Government Act, 2013. Furthermore, the petitioner has an adequate and efficacious remedy before the competent administrative authorities, including the Local Government Department and the Provincial Local Government Commission,

where the matter is already sub judice in the context of audit and enquiry. Judicial intervention at this premature stage would amount to encroachment upon the administrative sphere and interference in statutory processes yet to reach their logical conclusion.

**12.** Even otherwise, no case of discrimination within the contemplation of Article 25 of the Constitution has been made out. The petitioner has not placed any material to show that similarly situated Union Councils, facing comparable audit objections or complaints, have been treated differently. In absence of demonstrable hostile or selective treatment, the plea of political victimization remains merely speculative and cannot form the basis for issuance of a constitutional writ. Lastly, it deserves reiteration that the petitioner's status as an elected representative does not elevate an administrative dispute into a constitutional cause. Public office carries with it corresponding responsibilities of accountability. Oversight, audit and temporary restrictions, when undertaken in accordance with law, cannot be construed as infringement of dignity or personal liberty. Rather, they represent legitimate regulatory measures inherent in public administration.

**13.** For what has been discussed above, we are of the considered opinion that the instant petition is not maintainable in constitutional jurisdiction, as it pertains to internal administrative and financial affairs of the department, for which statutory remedies are available. The petitioner is at liberty to approach the competent authority for redressal of his grievance in accordance with law and to pursue appropriate remedies upon culmination of audit proceedings, if so advised. Consequently, this petition is **dismissed** with no order as to costs.

**JUDGE**

**JUDGE**