

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-116 of 2026

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on Misc. No.865/2026.
2. For orders on Office Objection No.1 to 5.
3. For orders on Misc. No.866/2026.
4. For hearing of main case.

20.01.2026.

Mr. Ashfaq Ali Panhwar, Advocate/Petitioner in person.

1. Urgent application is allowed.

2-4. The Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the BRT/Mass Transit Projects being initiated by the Official Respondents in Karachi and other areas, with it being said that the same hinge on massive foreign and domestic loans, incurring a huge financial burden on the public at large due to the consequent imposition of taxes, and it being alleged that the Projects venue otherwise remain incomplete and are commercially unviable, resulting in wastage of public funds. It is said that such acts violate Articles 4, 9, 23, 24 and 25 of the Constitution, with it also being averred that as Pakistan is a capitalist country, the monopolization of the transport business by the Government through loan financed projects violates Article 18 of the Constitution. On that basis, it is sought that such acts be declared unconstitutional and illegal; the Respondents be directed to provide details of the loan amounts and purchases of buses; and to handover the same to the public, who ought to run/operate them instead.

Having considered the matter, we are of the view that the Petition does not present a fit case for issuance of a writ as the matter squarely falls within the domain of the executive branch as per the well-established principle of trichotomy of powers and the interference sought would result in judicial overreach, which has been repeatedly deprecated by the Honourable Supreme Court. If any authority is required in that regard, one need look no further than the judgments rendered in the cases reported as Mian Irfan Bashir vs. The Deputy Commissioner (D.C) Lahore and others, PLD 2021 Supreme Court 571, and Chief Executive Officer, Multan Electric Power Company Ltd. Khanewal Road, Multan vs. Muhammad Ilyas and others, 2021 SCMR 775. In the former matter, the Court observed that:

“5. It is one thing for a judge to progressively interpret the law because of human rights considerations about which he has substantial information. It is quite another to change or ignore the law for economic or social or political reasons based on polycentric considerations beyond the judge's expertise. According to Chief Justice John Marshall, judicial power is never exercised for the purpose of giving effect to the will of the judge; but always for the purpose of giving effect to the will of the legislature; or in other words, to the will of the law. When courts exercise power outside the Constitution and the law and encroach upon the domain of the Legislature or the Executive, the courts commit judicial overreach.

6. Judicial overreach is when the judiciary starts interfering with the proper functioning of the legislative or executive organs of the government. This is totally uncharacteristic of the role of the judiciary envisaged under the Constitution and is most undesirable in a constitutional democracy. Judicial overreach is transgressive as it transforms the judicial role of adjudication and interpretation of law into that of judicial legislation or judicial policy making, thus encroaching upon the other branches of the Government and disregarding the fine line of

separation of powers, upon which is pillared the very construct of constitutional democracy. Such judicial leap in the dark is also known as "judicial adventurism" or "judicial imperialism." A judge is to remain within the confines of the dispute brought before him and decide the matter by remaining within the confines of the law and the Constitution. The role of a constitutional judge is different from that of a King, who is free to exert power and pass orders of his choice over his subjects. Having taken an oath to preserve, protect and defend the Constitution, a constitutional judge cannot be forgetful of the fact that he himself, is first and foremost subject to the Constitution and the law. When judges uncontrollably tread the path of judicial overreach, they lower the public image of the judiciary and weaken the public trust reposed in the judicial institution. In doing so they violate their oath and turn a blind eye to their constitutional role. Constitutional democracy leans heavily on the rule of law, supremacy of the Constitution, independence of the judiciary and separation of powers. Judges by passing orders, which are not anchored in law and do not draw their legitimacy from the Constitution, unnerve the other branches of the Government and shake the very foundations of our democracy."

In the same vein, it was observed in the latter case that:

"7. When judiciary encroaches upon the domain of the Executive, as in this case, where the learned judge disregarded the eligibility criteria and the recruitment policy of the Executive Authority and assumed the function of the Executive, it is said to commit *judicial overreach* - which occurs when a court acts beyond its jurisdiction and interferes in areas which fall within the Executive and/or the Legislature's mandate. Through such interference the court violates the doctrine of separation of powers by taking on the executive functions upon itself. The instant case is a textbook case of judicial overreach, where a judge directs an authority to issue an Appointment Letter disregarding the recruitment process, merit and the employment policy of the executive authority. Such judicial role imperils the separation of powers, jeopardizes the legitimacy of the judicial institution and undermines constitutional democracy. It is imperative that the courts do not derogate from their constitutionally mandated oversight function of judicial review. Certain values in the Constitution

have been designated as foundational to our democracy which means that, as corner-stones of our democracy, they must be scrupulously observed. It is a sure recipe for a constitutional crisis if these values are not observed and their precepts are not carried out conscientiously.”

Under the circumstances, the Petition is found to be misconceived, and, while granting the application for urgency, we accordingly dismiss the same *in limine*, along with the other Miscellaneous Applications with costs of Rs.25,000/- to be deposited by the Petitioner towards the High Court Clinic within seven days from the date of this Order.

JUDGE

JUDGE

MUBASHIR