

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-2533 of 2026
(*Syed Javed Iqbal & another versus Meerut Cooperative Housing Society Limited & others*)

Date	Order with signature of Judge
------	-------------------------------

Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order: 29.4.2026

Syed Tanweer Ashraf advocate for the petitioners

Mr. M. Yahya Iqbal advocate for respondent No.1
alongwith Mr. Shahid Bashir, Chairman of respondent No.1-society

Mr. Ali Safdar Depar, Assistant AG alongwith
Election Officer Mr. Abdul Jalil Zubedi, respondent No.2

ORDER

Adnan-ul-Karim Memon, J. The petitioners, namely Syed Javed Iqbal and Mst. Shamila Javed, through Constitutional Petition has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, challenging the legality of actions taken by the election authorities of Meerut Cooperative Housing Society Limited.

2. In essence, the petitioners contend that the status of Syed Javed Iqbal as a valid member of the Society had already been conclusively determined by the competent authority vide order dated 07.01.2026, and therefore, the subsequent rejection of his nomination papers is without lawful authority and beyond jurisdiction. They further assert that he is a lawful joint owner of the subject property and entitled to all attendant membership and voting rights, particularly in light of the provisions of Section 24 of the Sindh Cooperative Societies Act, 2020. It is also alleged that the Election Officer has acted in a biased and unlawful manner, warranting his removal. Similarly, petitioner Ali Hassan has challenged the impugned order dated 10.04.2026 whereby he was removed from the membership list and deprived of his voting rights, terming the same as arbitrary, illegal, and violative of principles of natural justice. He maintains that his membership had already been restored by the Registrar through order dated

07.01.2026, which remains valid and binding. Collectively, the petitioners seek directions for acceptance of nomination papers, restoration of membership and voting rights, and the conduct of fair and transparent elections under the supervision of an independent authority. They also seek suspension of the scheduled elections until the alleged irregularities are rectified and the electoral process is brought in conformity with law.

3. The petitioners' counsel submit that the impugned order dated 19.04.2026, passed by the Election Officer/Respondent No. 2, whereby the nomination papers of Petitioner No. 1 were rejected, is illegal, without lawful authority, and violative of the settled principles of natural justice. It is contended that the rejection was based on the allegation that Petitioner No. 1 was/is not a valid member of the Society and that his name was inserted in violation of the bye-laws and Section 24 of the Sindh Cooperative Societies Act, 2020; however, no copy of objections was ever supplied to him, nor was any opportunity of hearing afforded prior to passing the impugned order, thereby condemning him unheard. The counsel for petitioners further submit that Petitioner No. 1 is a lawful joint owner of the subject property along with Petitioner No. 2, his wife, by virtue of mutation/transfer letter, share certificate, and a registered lease deed, and has been recognized as a member of the Society since 2016. He added that his name had consistently appeared in the voter list and was only removed arbitrarily prior to the recent elections. It is emphasized that even Petitioner No. 2 has expressly consented to Petitioner No. 1 exercising membership and voting rights, in terms of Section 24 of the Act, which permits one of the joint owners to act as member. It is also contended that the issue of membership and voting rights of Petitioner No. 1 had already been conclusively determined by the competent authority/Registrar/Election Officer vide order dated 07.01.2026, whereby he was restored in the voter list and allowed to vote. This determination was acted upon by the Society; therefore, the Respondent No. 2 had no jurisdiction to reopen and reverse the said settled issue while scrutinizing nomination papers. The petitioners' counsel further argue that the Election Officer acted in a biased and arbitrary manner, ignoring relevant material, including prior orders of competent authorities and even the directions of this Court in earlier proceedings, and selectively disqualifying candidates opposed to the current management. It is also alleged that objections against ineligible voters were ignored, demonstrating lack of fair and transparent conduct of the election process. Lastly, it is submitted that the impugned order is based on misinterpretation of the Society's bye-laws and Section 24 of the Act, as these provisions do not bar the candidature of Petitioner No. 1, particularly when joint ownership is admitted and consent between co-owners exists. Therefore, the rejection of nomination papers is liable to be set aside, being arbitrary, unlawful, and in violation of constitutional and legal safeguards.

4. In compliance with the Court's notice, the Election Officer has put his appearance and submitted that the candidature of petitioner Syed Javed Iqbal was lawfully rejected vide order dated 19.04.2026 after due scrutiny of the record and consideration of objections filed by two members, namely Mr. Muhammad Noman Yameen and Mr. Nadeem Ahmed. It was stated that similar objections regarding the eligibility of the petitioner had also arisen in previous elections, wherein his nomination papers were rejected on earlier occasions as well. The Election Officer further submitted that, upon examination of the original record of Plot No. C-83, it transpired that the property was initially purchased by Mrs. Shamila Javed, who alone applied for and was granted membership of the Society. The relevant transfer order, share certificate, and possession documents were all issued solely in her name, establishing her as the original allottee and member of the Society. It was contended that the subsequent inclusion of petitioner Syed Javed Iqbal's name in the Society's record was based merely on an affidavit/undertaking submitted by Mrs. Shamila Javed, without any lawful justification. However he made it clear that the then management, in violation of Section 24 of the Sindh Cooperative Societies Act, 2020, inserted his name and issued a joint transfer order in 2016, which, according to the Election Officer, was not in accordance with law. The Election Officer emphasized that under Section 24 of the Act 2020, where more than one person acquires interest in a property, only one individual can be recognized as a member with voting rights either by mutual consent or, failing such agreement, the elder person. In the present case, Mrs. Shamila Javed, being the original allottee and recorded member, remained entitled to membership and voting rights, whereas petitioner could not be treated as a valid member for the purpose of contesting elections. On these grounds, it was submitted that the petitioner was not eligible to contest the elections of the Society, and therefore, his nomination papers were rightly rejected in accordance with law. he prayed to dismiss this petition.

5. This Court, vide order dated 26.03.2026 passed in C.P. No. 956 of 2026, disposed of the petition wherein the petitioners M/S Meerut Cooperative Society and others had challenged the order dated 06.02.2026 of the learned Senior Civil Judge, Karachi West, by which petitioner/Respondent No. 1 was permitted to contest the elections and the election process was placed under the supervision of the Nazir. The petitioners had contended that petitioner/Respondent No. 1 was disqualified on account of being an estate agent and that the trial Court had unlawfully interfered in the election process through an interim order. Conversely, the respondents maintained that petitioner/Respondent No. 1 was a lawful member having voting rights and that no provision of law disqualified him from contesting elections, while defending the trial Court's order as an interim measure to ensure fair elections. After hearing the parties, this Court observed that the dispute essentially pertained to the eligibility of Respondent No. 1 and the proper

conduct of the Society's elections. However, with the consent of the parties, this Court ordered that fresh, fair, and transparent elections be conducted and appointed Mr. Abdul Jalil Zubedi as Election Officer, vesting him with powers under the Sindh Cooperative Societies Act, 2020 and the Society's bye-laws. He was directed to finalize the voter list, scrutinize nomination papers, and decide all objections strictly in accordance with law through reasoned orders. Accordingly, the petition was disposed of with directions to all parties to cooperate with the Election Officer for smooth conduct of the election process.

6. Section 24 of the Sindh Cooperative Societies Act, 2020 provides that a member of a housing society ceases to be a member once his entire interest in the property is transferred to another person, whereupon the transferee is to be admitted as a member in accordance with the rules. In cases where such interest is acquired by more than one person, only one individual shall be recognized as a member with voting rights, to be decided by mutual consent, and in the absence of such agreement, the eldest among them shall be deemed the member entitled to vote, while the others shall remain members without voting rights.

7. After hearing the learned counsel for the parties, examining the record, and considering the relevant provisions of law, particularly Section 24 of the Sindh Cooperative Societies Act, 2020, this Court proceeds to determine the controversy.

8. At the outset, the principal question revolves around the legality of the rejection of the nomination papers of Petitioner No. 1, the scope and applicability of Section 24 of the Act, 2020 in the facts of the present case, and whether the impugned order suffers from violation of the principles of natural justice.

9. It is an admitted position that Petitioner No. 1 is a joint owner of the subject property along with Petitioner No. 2, and his name was incorporated in the Society's record through a transfer/mutation process in 2016, followed by issuance of a share certificate and execution of a registered lease deed. Moreover, his name continued to appear in the voter list for a considerable period and was also restored pursuant to the order dated 07.01.2026 passed by the competent authority. This restoration was not challenged by the Society and was, in fact, implemented. Therefore, prima facie, the status of Petitioner No. 1 as a member stood recognized and attained finality at least for the purposes of the electoral process.

10. Section 24 of the Act, 2020, when read, does not prohibit joint ownership nor does it invalidate the membership of a co-owner. It merely regulates the exercise of voting rights by providing that in case of multiple owners, one individual shall act as a voting member, either by mutual consent or, failing such

consent, the elder person. In the present case, it is specifically asserted and not convincingly rebutted that Petitioner No. 2 had no objection to Petitioner No. 1 exercising such right. Therefore, the statutory requirement of “mutual consent” appears to have been fulfilled. Consequently, the reliance placed by the Election Officer on Section 24 to out rightly deny membership status to Petitioner No. 1 appears to be misplaced and based on a misinterpretation of the provision.

11. The Election Officer’s reasoning that the initial allotment and membership stood exclusively in the name of Petitioner No. 2 does not, by itself, invalidate the subsequent transfer/mutation carried out by the Society itself. If such transfer was irregular, the same could only be set aside through proper legal proceedings by a competent forum. The Election Officer, acting within the limited domain of election supervision, could not assume the role of an adjudicating authority to declare past transactions void, particularly when such transactions had remained in the field and were acted upon for years. In this regard, it is a settled principle that a collateral forum cannot reopen past and closed transactions unless declared void by a competent court.

12. The impugned order is vitiated on account of violation of the fundamental principle of natural justice, i.e., *audi alteram partem*. Admittedly, no opportunity of hearing was afforded to Petitioner No. 1, nor were copies of objections supplied to him before passing the adverse order. The Hon’ble Supreme Court has held that even in the absence of an express statutory provision, the requirement of fair hearing is to be read into every action having civil consequences. Similarly, it is well settled that any order passed in violation of natural justice is rendered void.

13. This Court, in its earlier order dated 26.03.2026, had specifically directed the Election Officer to decide objections strictly in accordance with law through reasoned orders, after proper scrutiny. The impugned order, however, reflects that the Election Officer not only misapplied the law but also failed to adhere to procedural fairness, thereby acting beyond the mandate conferred by this Court.

14. While the Election Officer has emphasized past rejections of nomination papers, such past instances cannot operate as a bar unless supported by a lawful and subsisting disqualification under the statute. No such disqualification has been demonstrated under the Act, 2020.

15. In view of the above, this Court is of the considered view that the impugned order dated 19.04.2026 is unsustainable in law, being based on misinterpretation of Section 24 of the Act, 2020. The Election Officer exceeded his jurisdiction by reopening a settled issue of membership. However, the best course for the election officer was to refer the matter to the Court for

determination. The order suffers from violation of principles of natural justice; and the reasoning advanced by the Election Officer is legally flawed and cannot be upheld.

16. Consequently, the impugned order is set aside, and the stance taken by the petitioner is upheld to the extent that his removal from the membership list and consequent disenfranchisement cannot be sustained in law. The respondents are directed to restore his status in accordance with law and proceed with the electoral process strictly in compliance with statutory provisions and principles of fairness, transparency, and due process. The petition along with pending application(s) stand disposed of in the above terms.

JUDGE

JUDGE

Shafi