

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4092 of 2026
(*Atif Ghaffar versus Federation of Pakistan & another*)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and order: 19.8.2026

Mr. Amjad Hayat, Advocate for the petitioner
Ms. Wajiha Mehdi, Assistant Attorney General
Sardar Zafar Hussain, Advocate for respondent No.2

ORDER

Adnan-ul-Karim Memon, J. Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief: -

- 1. That the seized vehicle which is lying at the open sky area, the Petitioner will be suffered by the day-by-day losses of de-value of the seized in-question vehicle, therefore may kindly release the illegally detained in-question vehicle to the Petitioner without any further loss of time, in the best interest of justice as the Show Cause Notice is time-barred as per section 168(2) of the customs Act, 1969,*
- 2. Passed direction that the staff of the Respondent No.2 illegally detained the in-question vehicle, without any notices under Section 26, 171 & 168 of the Customs Act, 1969, which is a mandatory requirement, therefore, a seizure is illegal and against the law,*
- 3. Declare that the failure of Respondent No.02, not to release the in-question vehicle and detained the same, without jurisdiction, illegal, unlawful, capricious, mala-fide. arbitrary, discriminatory, ultra vires of the law, and constitution, equity, and fairness.*

2. The petitioner, claiming to be the lawful owner of Mazda Truck No. E-4425, has filed the present constitutional petition seeking release of the vehicle seized by the Customs authorities on 14.03.2026. According to the petitioner, the vehicle was intercepted near the Super Highway Customs Choke Point on the allegation that it was carrying 9,120 Kgs of foreign-origin pomegranates. The driver allegedly abandoned the vehicle, whereafter the Customs officials seized the vehicle and goods and subsequently issued a show-cause notice.

3. The petitioner's counsel contends that the detention and seizure are illegal as the mandatory notices and proceedings under Sections 26, 168, 171 and other relevant provisions of the Customs Act, 1969 were not duly served or complied with. It is further alleged that the show-cause notice was issued beyond the prescribed period under Section 168(2), rendering the proceedings time-barred and without lawful authority. The petitioner also challenges the seizure proceedings on the ground that the mashirnama was prepared in violation of Section 103 Cr.P.C., as the witnesses were Customs officials rather than

independent persons. The petitioner's counsel further asserts that the impugned actions violate the principles of natural justice and the fundamental rights guaranteed under Articles 4, 18, 24 and 25 of the Constitution. Relying upon judgments of the superior courts, the petitioner maintains that once the statutory period for issuance of notice expires, the Customs authorities lose jurisdiction to retain the seized property. The petitioner, therefore, seeks a direction for unconditional release of the seized vehicle and declares the continued detention illegal, arbitrary, without jurisdiction and contrary to law. He lastly submitted that the impugned show cause notice dated 17.6.2026 for outright confiscation of the subject vehicle has been issued beyond the period of limitation prescribed in Section 168 of the Customs Act, 1969 and, therefore, referring the petitioner to the hierarchy under the Customs Act would amount to abuse of the process of law.

4. This Court, vide order dated 07.7.2026, issued notice to the respondents to appear and assist this Court and, in compliance thereof, they have filed para-wise comments/objections with the narration that against the show cause notice, Order-in-Original Nos.21 to 25/2025-26 has already been issued vide letter dated 16.7.2026. Learned counsel submits that in the presence of the Order-in-Original, an appeal is to be filed by the aggrieved party against that decision, and the show cause notice challenged in these proceedings, has been culminated into the Order-in-Original; therefore, this petition has become infructuous by operation of law and the petitioner has to avail the remedy against that decision, if he is at all aggrieved under the law.

5. Learned counsel for the petitioner, in rebuttal, submits that the respondents' contention that the petition has become infructuous merely because the show-cause notice has culminated in Order-in-Original Nos.21 to 25/2025-26 is misconceived as the same has never been received. It is argued that the very foundation and legality of the proceedings, including the issuance of the show-cause notice beyond the statutory period and without compliance with the mandatory provisions of the Customs Act, 1969, has been specifically challenged before this Court; therefore, a subsequent order if any passed pursuant to a void and time-barred notice cannot cure the inherent illegality or confer jurisdiction upon the respondents retrospectively. The petitioner's counsel further submits that where the initiation of proceedings itself is without lawful authority, the availability of an alternate appellate remedy against the consequential order does not bar the constitutional jurisdiction of this Court. Accordingly, the Order-in-Original cannot render the present petition infructuous, and the respondents remain liable to justify the continued detention of the petitioner's vehicle in accordance with law.

6. We have considered the submissions of learned counsel for the parties and have examined the record.

7. The petitioner principally seeks release of the vehicle on the ground that the show-cause notice dated 17.06.2026 was issued beyond the period prescribed under Section 168 of the Customs Act, 1969 and that the seizure proceedings were otherwise contrary to the mandatory provisions of law. However, during the pendency of the petition, the proceedings initiated through the impugned show-cause notice have already culminated in Order-in-Original Nos.21 to 25/2025-26 dated 16.07.2026.

8. Once the show-cause notice has culminated in a final adjudicatory order, the legality of such notice, the alleged violation of the statutory provisions, the question of limitation, the validity of the seizure and detention, and the entitlement of the petitioner to release of the vehicle are matters which can appropriately be examined by the competent appellate forum under the Customs Act, 1969. The petitioner cannot, after the passing of the Order-in-Original, seek adjudication of the same disputed questions in constitutional jurisdiction while bypassing the statutory appellate mechanism provided by law.

9. The mere assertion that the petitioner has not received a copy of the Order-in-Original does not revive a cause of action against the show-cause notice which has already merged into the final adjudication. If the petitioner is aggrieved by the said order, it is open to him to obtain its copy and avail the remedy available under the Customs Act within the prescribed period. All questions raised before us, including the alleged expiry of limitation under Section 168(2), non-compliance with the mandatory provisions of the Customs Act, validity of the seizure and *mashirnama*, and the legality of continued detention of the vehicle, may be urged before the competent appellate authority, which shall examine the same strictly in accordance with law.

10. We are, therefore, not persuaded to exercise the extraordinary constitutional jurisdiction of this Court at this stage, particularly when an effective and specific statutory remedy is available to the petitioner against the final adjudication. No exceptional circumstance has been demonstrated warranting bypass of the statutory hierarchy. The constitutional jurisdiction under Article 199 is discretionary and is not intended to substitute the statutory appellate process, particularly where disputed questions arising from a final adjudication are yet to be examined by the competent forum.

11. Accordingly, in view of the subsequent passing of Order-in-Original Nos.21 to 25/2025-26 dated 16.07.2026, the grievance founded upon the impugned show-cause notice no longer survives in its original form. The

petitioner may avail the remedy available under the Customs Act, 1969, and raise therein all grounds available to him in law. The competent appellate authority shall decide the matter independently, if filed by the aggrieved person uninfluenced by any observation made herein.

12. For the foregoing reasons, this petition has become infructuous and is accordingly disposed of, along with pending applications, if any. The petitioner shall, however, be at liberty to avail the statutory remedy against the Order-in-Original in accordance with law.

JUDGE

JUDGE

Zahid/*