



# HIGH COURT OF SINDH

## Case Law Review



### Fortnightly Bench Update



Published by: Legal Research Cell,  
High Court of Sindh

**Volume I | Issue XVI | 16th-August-2026 to 31st-August-2026**



### FORTNIGHTLY BENCH UPDATE

**(16-08-2026 to 31-08-2026)**

An Overview of Recent Judgments of the Federal Constitutional Court of Pakistan, Supreme Court of Pakistan, Islamabad High Court, Lahore High Court, Peshawar High Court and High Court of Sindh, Latest Legislative Amendments and Important Articles, Compiled and Published by the Legal Research Cell, High Court of Sindh, Karachi

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## 1. FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

**F.C.P.L.A. Nos.1276 AND 1277 OF 2026**

**CM Pak Limited, through its Authorized Officer Versus The Federation of Pakistan, through Secretary, Revenue Division & others**

**Present:** *Mr. Chief Justice Amin-ud-Din Khan*  
*Mr. Justice Aamer Farooq*

**Source:** <https://www.fccp.gov.pk/download/eyJpdjI6IlRYY0VXSEJjM081ZWovYVRKbnpZNEE9PSIsInZhbnVlIjoidzhlK0x1RGJkMEVFeStOaEpXQzMvUT09IiwibWFjIjoiNjU2NzdjZmFlOTI4ZTFiYTI5ZTkxNTM2OWY1ZmJlMjE2NGEzN2I1NTg0ZGYzMtMyMzEyMjRlNTE5MTAxOTJkNCIsInRhZyI6IiJ9>

**Facts:** The petitioner, CM Pak Limited, a telecommunications company, was liable to pay Super Tax under Section 4C of the Income Tax Ordinance, 2001. After the constitutional validity of Super Tax had been upheld, FBR demanded payment from the petitioner. The petitioner claimed that it had excess tax deducted at source amounting to approximately Rs.2.212 billion for Tax Year 2022 and sought adjustment of this available tax credit against its Super Tax liability. FBR declined the adjustment. The petitioner challenged the refusal before the Islamabad High Court under Article 199 of the Constitution, but its writ petitions were dismissed on 25.03.2026. It thereafter sought leave to appeal before the Federal Constitutional Court.

**Issue:** Whether tax credit available under Section 168 of the Income Tax Ordinance, 2001 can be adjusted against Super Tax payable under Section 4C of the Ordinance.

**Rule:** Section 4C(3) expressly provides that Super Tax shall be paid, collected and deposited in the manner specified in Section 137(1), and that all provisions of Chapter X of the Income Tax Ordinance shall apply. Since Section 168 forms part of Chapter X and provides for credit of tax collected or deducted, its application cannot be excluded unless the statute expressly provides otherwise. A tax credit under Section 168 is also legally distinct from a refund claimed under Section 170.

**Application:** The Court observed that Section 4C(3) separately refers to Section 137(1) for the date and manner of payment and thereafter uses the wider expression “all provisions of Chapter X shall apply.” Therefore, limiting Chapter X merely to procedural provisions would render this additional statutory language redundant. As Section 168 is contained in Chapter X, the legislature intended the entire statutory regime concerning tax payment, collection, adjustment and credit to apply to Super Tax. Parliament could have restricted the incorporation to procedural provisions but did not do so, and the Court could not read such a limitation into the statute. The Court further clarified that Section 168 tax credit is different from a refund under



Section 170, and a taxpayer cannot be compelled to pursue only the refund mechanism where adjustment under Section 168 is legally available. However, whether the petitioner actually possessed an adjustable credit and the amount thereof were matters for determination by the competent tax authority.

**Conclusion:** The Court converted the petitions into appeals, allowed them, set aside the Islamabad High Court judgment dated 25.03.2026 and declared that the petitioner was entitled to seek adjustment of its available tax credit against Super Tax before the competent taxing authority, which would determine the actual claim in accordance with the Income Tax Ordinance. The ratio decidendi is that because Section 4C(3) expressly applies all provisions of Chapter X, tax credit under Section 168 is legally capable of adjustment against Super Tax payable under Section 4C, and the taxpayer cannot be restricted exclusively to the refund procedure under Section 170. The observation that fiscal statutes ought to be construed in favour of the taxpayer was supportive reasoning/obiter dicta and was not the principal basis of the decision.

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## 2. FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

**C.P.L.A. No.1836-L of 2019**

**Altaf Hussain Versus The University of the Punjab through its Vice Chancellor and others**

**Present:** *Mr. Justice Aamer Farooq*  
*Mr. Justice Muhammad Karim Khan Agha*  
*Mr. Justice Syed Arshad Hussain Shah*

**Source:** <https://www.fccp.gov.pk/download/eyJpdjI6ImhlV3JCekxXVFdpY3B3cmJSYktYM1E9PSIsInZhbnHVlIjoiZXNGY3liR0tvaWJYR2MySzN3alBGdz09IiwibWFjIjoiODRIYjNlMzNlZmQwOTAwMjUxMDhmZTU3MDIzZjAyMmY0ODQyMDU5NmI2ZTkzZWVjZGY3NDRkMWQ1NTkxMDc4OCIsInRhZyI6IiJ9>

**Facts:** The petitioner applied for admission to the M.Phil Programme of the University of the Punjab on the basis of an MBA degree obtained from Allama Iqbal Open University. Although he passed the required admission tests and the Higher Education Commission issued an equivalence certificate recognizing his qualification, the University refused admission because his MBA comprised 60 credit hours, whereas the University required 75 credit hours. A learned Single Judge of the Lahore High Court had granted relief to the petitioner, but the University's intra-court appeal was allowed and that judgment was set aside. The petitioner consequently sought leave to appeal, arguing that once HEC had declared his qualification equivalent, the University could not independently reject it for want of credit hours.

**Issue:** Whether an equivalence certificate issued by the Higher Education Commission creates a right to admission and prevents an autonomous university from applying its own programme-specific eligibility requirements, including minimum credit hours.



**Rule:** HEC has statutory authority to determine equivalence and academic comparability of qualifications, while an autonomous university retains independent authority to prescribe reasonable and uniformly applicable eligibility criteria for admission to its programmes. Equivalence and eligibility are legally distinct concepts. An equivalence certificate recognizes the academic standing of a qualification but does not establish that its holder satisfies every programme-specific admission requirement. Courts should ordinarily respect the academic, administrative and admission autonomy of universities unless their decision is arbitrary, discriminatory, mala fide, without jurisdiction or contrary to law.

**Application:** The Court found that HEC's equivalence certificate did not override the University's statutory authority to prescribe minimum credit hours for admission to its M.Phil Programme. The certificate itself clarified that granting admission for higher education remained the responsibility of the admitting university and that HEC had no role in determining suitability for admission. The University's requirement of 75 credit hours was a programme-specific academic criterion applicable generally to candidates, and the petitioner failed to establish that it was arbitrary, discriminatory, mala fide or contrary to law. The Court further held that there was no conflict between the federal and provincial statutory regimes, because HEC's power to determine equivalence and the University's power to determine eligibility operated in separate fields. An equivalent qualification could make a candidate eligible for consideration, but could not create an absolute or vested right to admission where an independent admission requirement remained unsatisfied.

**Conclusion:** The Court dismissed the petition and declined leave to appeal, holding that the University was legally competent to enforce its minimum credit-hour requirement notwithstanding the HEC equivalence certificate. The ratio decidendi is that equivalence of a qualification and eligibility for admission are distinct matters: HEC may determine equivalence, but an autonomous university may independently prescribe and enforce reasonable programme-specific admission criteria, unless such criteria are shown to be arbitrary, discriminatory, mala fide or contrary to law. The broader observations regarding judicial restraint in academic and administrative affairs of universities support this principle and reinforce the Court's reasoning.

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### 3. FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

**C.A.192-P/2010, etc.**

**Fazale Haq College, Mardan Versus Sanobar Khan & others, along with connected Civil Appeals, Civil Petitions for Leave to Appeal and Civil Review Petitions**

**Present:** *Mr. Justice Amin-ud-Din Khan, Chief Justice*  
*Mr. Justice Ali Baqar Najafi*  
*Mr. Justice Syed Arshad Hussain Shah*

**Source:** <https://www.fccp.gov.pk/download/eyJpdii6Imp4YVJUY3cvYmJ4alp6NUZqMnVJSiE9PSIsInZhbnVlIjoiQ0lYa2JyaUhwOVNDa1BmSDYvUmdzUT09IiwibWFjIjoiZmRlNTJiY2I3>

[YThmYjEzY2I1NGJkNmQwYWQ4YWMwNTNjNjRhNmI0ZDI1ZTk1ODY0YzRhMjQ5NzdiZmE4YjNiZiIsInRhZyI6IiJ9](#)

- Facts:** The connected matters arose from acquisition of lands under the Land Acquisition Act, 1894 for various public purposes, including educational institutions, motorways, defence projects and a grid station. Certain landowners challenged the Collector's Award through references under Section 18 of the Act and ultimately obtained enhanced compensation, whereas the respondents either accepted the Award without protest, failed to seek a reference within the prescribed limitation, or did not pursue further appellate remedies. After similarly situated landowners succeeded in obtaining higher compensation, these non-objecting or non-litigating landowners sought the same benefit through applications before the Land Acquisition Collector, constitutional petitions and execution proceedings. The respective High Courts granted relief by extending enhanced compensation, remanding matters to Reference Courts, or treating such landowners as decree-holders. The controversy also required reconsideration of the majority view in *Saddaqt Ali Khan and others v. Collector Land Acquisition and others* (PLD 2010 SC 878), which had extended enhanced compensation to non-litigating landowners.
- Issue:** Whether a landowner who accepted the Collector's Award without protest, failed to seek a reference under Section 18 of the Land Acquisition Act, 1894 within limitation, or did not pursue available appellate remedies can subsequently claim enhanced compensation awarded to another landowner through constitutional jurisdiction, execution proceedings or any other collateral proceeding.
- Rule:** The Land Acquisition Act, 1894 is a complete and self-contained code for determination and enhancement of compensation. Section 18 provides the exclusive statutory remedy for a landowner dissatisfied with the Collector's Award and must be invoked within the prescribed limitation. Under Sections 12, 18, 21, 26 and 31, an Award becomes final unless challenged in the manner prescribed by law; a Reference Court proceeding is inter partes and its award operates as a decree between the parties to that reference. A landowner who accepts compensation without protest or permits the statutory remedy to lapse cannot later claim the benefit of another person's litigation. Equity, Article 25, Article 187 of the Constitution and Order XLI Rule 33 CPC cannot be used to create a substantive right contrary to the statutory scheme or in favour of persons who were not parties to the proceedings.
- Application:** The Court held that the right to seek enhancement of compensation is statutory and must be exercised strictly in the manner prescribed by the Land Acquisition Act. A landowner who accepts the Award without protest or fails to invoke Section 18 makes a legal election and permits the Award to attain finality; the doctrines of waiver, acquiescence and election consequently prevent him from reopening the matter merely because another landowner later succeeds in obtaining higher compensation. The Court emphasized that reference proceedings are not representative or class proceedings, and an award under Section 26 is a decree confined to the parties before the Reference Court. Article 25 could not assist non-litigating landowners because persons who diligently pursued the statutory remedy are not similarly situated to those who allowed their rights to lapse. Likewise, Article 187 and Order XLI Rule 33 CPC are procedural or supplementary powers and cannot override Sections 18 and 31 or create

substantive rights in favour of strangers to the proceedings. The Court therefore found that the majority view in *Saddaqt Ali Khan*, insofar as it allowed enhanced compensation to landowners who had neither invoked Section 18 nor remained parties to the reference proceedings, was inconsistent with the statutory scheme, while the dissenting opinion correctly reflected the law.

**Conclusion:** The Court allowed all connected Civil Appeals, converted the civil petitions for leave to appeal into appeals and allowed them, and also allowed the review petitions. The impugned High Court judgments extending enhanced compensation to non-objecting or non-litigating landowners were set aside and the orders of the competent authorities under the Land Acquisition Act were restored. The majority judgment in *Saddaqt Ali Khan and others v. Collector Land Acquisition and others* (PLD 2010 SC 878) was reviewed to the extent that it extended enhanced compensation to landowners who had neither invoked Section 18 nor remained parties to the reference proceedings, and the dissenting view was approved. The ratio decidendi is that a landowner who accepts the Collector's Award without protest, fails to invoke Section 18 within limitation, or allows available remedies to lapse cannot claim enhanced compensation subsequently awarded to another landowner, whether through Article 199, Article 187, Order XLI Rule 33 CPC, execution proceedings or equitable considerations. The Court's broader observations concerning fiscal consequences, public expenditure, finality of litigation and the desirability of legislative reform are supportive observations and obiter dicta.

**Additional Note:**

Justice Syed Arshad Hussain Shah concurred with the judgment and expressly stated that his additional observations did not qualify or affect its ratio. He clarified that although non-objecting and non-litigating landowners cannot henceforth claim enhanced compensation merely on the strength of *Saddaqt Ali Khan*, those landowners who had already received enhanced compensation pursuant to that judgment should not be required to refund or reimburse the amounts received in good faith under a judicial determination then holding the field. Relying on the principle reflected in the *Judges Pension Case* (PLD 2013 SC 829), he considered recovery of such amounts inequitable where no fraud or wrongdoing was involved. He further observed that landowners who were not parties to, or had not agitated, the acquisition proceedings may avail the benefit of Section 148 CPC if they now seek to join pending proceedings at any stage. The learned Judge expressly characterized these observations as limited considerations of fairness, bona fide reliance and avoidance of undue hardship, without detracting from the ratio of the main judgment; they therefore constitute consequential observations rather than the ratio decidendi.

4. **IN THE SUPREME COURT OF PAKISTAN**

**Civil Petition No.624 of 2023**

**Muhammad Iftikhar Shoukat Versus Haji Muhammad Hayat (deceased) through LRs and others**

**Present:** *Mr. Justice Yahya Afridi, CJ*  
*Mr. Justice Jamal Khan Mandokhail*

**Source:** [https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 624 2023.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 624 2023.pdf)

**Facts:** The petitioner challenged the Lahore High Court's order dismissing his civil revision against an appellate judgment whereby the respondent's suit, earlier dismissed by the Trial Court for non-production of evidence, was remanded with one fair opportunity to produce evidence. The Appellate Court had noticed that the suit was dismissed within about two months and ten days of its institution, despite intervening summer vacations, and considered that the matter should preferably be decided on merits. The High Court found no jurisdictional defect or material irregularity in the discretion exercised by the Appellate Court and declined interference under Section 115 CPC. The Supreme Court further noticed that, despite the remand having been ordered approximately eight years earlier and there being no stay order, the remanded proceedings still remained pending before the Trial Court.

**Issue:** Whether the High Court was justified in declining interference under Section 115 CPC with the appellate order of remand, and whether remanded proceedings could remain pending merely because proceedings concerning the matter were pending before a higher Court in the absence of an express stay order.

**Rule:** Revisional jurisdiction under Section 115 CPC is supervisory and limited. The High Court cannot substitute its own view merely because another view is possible and may interfere only where the subordinate Court exercised jurisdiction not vested in it, failed to exercise jurisdiction vested in it, or acted illegally or with material irregularity. Likewise, jurisdiction under Article 185(3) of the Constitution is not an ordinary appellate jurisdiction and interference requires a patent error of law or jurisdiction, misreading or non-reading of material evidence, an erroneous legal principle, or substantial miscarriage of justice. Mere pendency of proceedings before a higher Court does not operate as a stay, and a remanded matter must be proceeded with and concluded within the period fixed by the remanding Court or, if no period is fixed, within a reasonable time.

**Application:** The Court found that the Appellate Court had lawfully exercised its discretion by granting the respondent one fair opportunity to produce evidence so that the suit could be decided on merits. No jurisdictional defect, material irregularity or failure of justice was established, and therefore the High Court correctly declined to interfere in revision. The Court also found no ground warranting interference under Article 185(3). However, it expressed serious concern that the remanded proceedings had remained pending for approximately eight years despite there being no stay or restraint from any competent Court. The Court held that pendency of proceedings before a higher forum cannot by itself justify withholding trial proceedings. It further clarified that, after remand, the Trial Court should not treat the matter as a fresh case but must proceed according to the terms and scope of the remand and avoid unnecessary adjournments.

**Conclusion:** The Supreme Court dismissed the petition, upheld the remand order and directed the Trial Court to conclude the remanded proceedings within two months from receipt of the order, excluding summer vacations and without unnecessary adjournments. The ratio decidendi is that revisional jurisdiction under Section 115 CPC is confined to jurisdictional illegality or material irregularity, and a lawful discretionary remand intended to secure adjudication on merits cannot be disturbed merely because another view is possible. The Court also laid down that mere pendency of a matter before a higher Court does not stay proceedings in the absence of an express stay order, and remanded cases must be concluded expeditiously within the scope of the remand. The direction that copies of the order be sent to all High Courts for appropriate administrative directions regarding expeditious disposal of remanded cases is a broader consequential observation arising from the case rather than the primary ratio concerning the validity of the remand.

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## 5. SUPREME COURT OF PAKISTAN

### **Civil Petition No.578-P of 2024**

**Dean, Pakistan Institute of Community Ophthalmology (PICO), Peshawar Versus Nasira Begum and others**

**Present:** *Mr. Justice Muhammad Ali Mazhar*  
*Mr. Justice Musarrat Hilali*

**Source:** [https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 578 p 2024.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 578 p 2024.pdf)

**Facts:** Respondents Nos.1 and 2 were appointed on 26.12.2001 and continuously served at Hayatabad Medical Complex, Peshawar. In 2010, PICO was brought under the administrative and management control of HMC. Meanwhile, Section 11 of the North-West Frontier Province Medical and Health Institutions and Regulation of Health-Care Services Ordinance, 2002 had been amended through the Amendment Act, 2006, whereby contractual employees fulfilling the prescribed conditions were deemed to have been appointed on regular basis. Relying on this statutory amendment, the respondents approached the Khyber Pakhtunkhwa Medical Teaching Institutions Appellate Tribunal seeking regularization. The Tribunal allowed their appeal and directed that they be treated as regular employees by operation of law. The Dean, PICO, challenged that decision before the Supreme Court, principally contending that the respondents were contractual employees and their remedy lay before the Civil Court.

**Issue:** Whether contractual employees covered by the amended Section 11 of the Ordinance, 2002 were automatically entitled to regular status by operation of the statutory deeming provision, notwithstanding administrative failure to formally regularize their services.

**Rule:** Where the legislature creates a deeming provision or legal fiction, the Court must give full effect to it within the purpose and limits for which it was enacted, including all necessary and inevitable consequences flowing from that fiction. Under the amended Section 11 of the Ordinance, 2002, a person selected in the prescribed manner and appointed on contract basis is deemed to have been appointed on regular basis from the commencement of the amendment.

or the date of continuous appointment, whichever is later. Beneficial and remedial legislation must be construed liberally so as to advance the remedy and fulfil the legislative purpose rather than defeat it through a restrictive interpretation.

**Application:** The Court held that the amended Section 11 created a statutory fiction which automatically altered the status of qualifying contractual employees to regular employees. The use of the word “deemed” amounted to a clear and mandatory legislative command and the department was required merely to complete the consequential administrative formalities. It could not defeat or postpone the statutory regularization by delaying paperwork or refusing to recognize the status already conferred by law. The Court further observed that the Amendment Act, 2006 was beneficial and remedial in nature and was intended to protect contractual employees who had served for substantial periods. Therefore, its provisions were required to be implemented uniformly and without discrimination. The Court also reiterated that a legal fiction must be carried to its logical conclusion, though it cannot be extended beyond the legislative purpose for which it was created.

**Conclusion:** The Supreme Court found no perversity, infirmity or legal flaw in the judgment of the Tribunal, dismissed the civil petition and declined leave to appeal. The ratio decidendi is that where a statute expressly deems qualifying contractual employees to have been appointed on regular basis, their regular status arises automatically by operation of law and cannot be defeated by administrative delay or refusal to complete formalities. The further observations that beneficial and remedial statutes should receive a liberal and purpose-oriented interpretation, and that public authorities must implement such laws uniformly and without discrimination, reinforce and support the principal ratio.

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## 6. SUPREME COURT OF PAKISTAN

### Civil Appeal No.367 of 2025

### Pakistan Vanaspati Manufacturers Association (PVMA) Versus Competition Commission of Pakistan

**Present:** *Mr. Justice Jamal Khan Mandokhail*  
*Mr. Justice Salahuddin Panhwar*

**Source:** [https://www.supremecourt.gov.pk/downloads\\_judgements/c.a.\\_367\\_2025.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.a._367_2025.pdf)

**Facts:** The appellant, Pakistan Vanaspati Manufacturers Association, represented manufacturers of ghee and cooking oil. Between 2007 and 2009, amid inflationary pressure and falling international palm oil prices, the Federal Government urged the industry to reduce prices and pass the benefit to consumers. Following consultations between the Government and the appellant, reduced prices were communicated to member manufacturers. The Competition Commission of Pakistan issued a show-cause notice alleging, inter alia, that the appellant had negotiated and fixed prices on behalf of its members in violation of Section 4(1) read with Section 4(2)(a) of the Competition Act, 2010. The Commission found the price-fixing allegation established and imposed a penalty of Rs.50 million. The Competition Appellate

Tribunal affirmed the finding and penalty. The appellant challenged the decision, contending that the reduction was made at the Government's request for consumer welfare and that its communications to members were merely recommendatory.

**Issue:** Whether a trade association's collective determination or recommendation of reduced prices, made following consultations with the Government and intended to benefit consumers, constitutes prohibited price-fixing under Section 4 of the Competition Act, 2010.

**Rule:** Section 4 of the Competition Act prohibits an undertaking or association of undertakings from entering into an agreement or making a decision having the object or effect of preventing, restricting or reducing competition, including fixing purchase or selling prices. The "object" and "effect" limbs are alternative and not cumulative. Horizontal price-fixing between competing undertakings, whether directly or through a trade association, is by its very nature restrictive of competition and does not require separate proof of actual anti-competitive effects. A recommendation by a trade association may amount to a prohibited decision even if formally non-binding where it is capable of influencing the commercial conduct of its members.

**Application:** The Court found that the consultations between the appellant and the Government resulted in a collective determination of reduced prices which the appellant communicated to its members. The fact that prices were reduced, rather than increased, and that consumers obtained a short-term benefit did not remove the anti-competitive character of the arrangement. Competition law requires each undertaking to determine its prices independently according to its own commercial considerations. Once competing manufacturers collectively fixed a common price through their association, their independent pricing autonomy was restricted. The Court further held that a non-binding recommendation can constitute a "decision" where it influences members' commercial conduct, particularly as none of the manufacturers reduced prices below the collectively determined level. The plea of public good or Government encouragement could not absolve the appellant because good intentions do not legalize conduct that restricts competition. However, the Court considered the Government's initiation of the negotiations relevant to the quantum of penalty because the conduct was not a case of concealed collusion or covert cartel behaviour.

**Conclusion:** The Supreme Court partly allowed the appeal, affirmed the findings of the Competition Commission and the Competition Appellate Tribunal that the appellant had violated Section 4 of the Competition Act, but reduced the penalty from Rs.50 million to Rs.30 million. The ratio decidendi is that collective price determination by competing undertakings, whether prices are increased or reduced and even where undertaken at the Government's request or ostensibly for consumer welfare, violates Section 4 because competitors must independently determine their commercial prices. A trade association's recommendation may constitute a prohibited decision where it is capable of influencing and in fact influences members' pricing conduct. The observations regarding the Government's duty to work through the Competition Commission, the Commission's independence, competition advocacy and the desirability of preventive measures before punitive enforcement are broader consequential observations and obiter dicta, although the Government's role was directly relevant to reduction of the penalty.

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## 7. SUPREME COURT OF PAKISTAN

**Civil Petitions No.2354-L to 2370-L, 2403-L, 2404-L & 2405-L of 2025  
The Secretary, Schools Education Department, Government of the Punjab, Lahore and  
another Versus Mst. Najma Parveen and others**

**Present:** *Mr. Justice Yahya Afridi, CJ,*  
*Mr. Justice Jamal Khan Mandokhail*  
*Mr. Justice Muhammad Ali Mazhar*

**Source:** [https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 2354 1 2025.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2354 1 2025.pdf)

**Facts:** The respondents were recruited on the recommendation of the Punjab Public Service Commission as Senior Headmistress/Deputy District Education Officer (Women), BS-18, on contract for five years and were posted on 12.02.2010. Their services were subsequently regularized with effect from 10.09.2011. They sought recognition of their contractual service from 12.02.2010 to 10.09.2011 for seniority, pension, pay fixation and increments, contending that their service should be counted from the date of initial contractual appointment. Their departmental representations were rejected, but the Punjab Service Tribunal allowed their service appeals and directed that the contractual period be counted as qualifying service for seniority, pension and pay fixation, that their initial appointment date be reflected as 12.02.2010 in the service record and seniority lists, and that increments for the contractual period be restored. The School Education Department challenged the consolidated judgment before the Supreme Court.

**Issue:** Whether continuous contractual service rendered before regularization can be counted as qualifying service for pensionary benefits and, if so, whether such counting also entitles the employees to retrospective regularization, seniority, pay fixation and increments from the date of their initial contractual appointment.

**Rule:** Continuous temporary or officiating service followed by confirmation may be counted towards pension under Rule 2.3 of the Punjab Civil Services Pension Rules and CSR 371-A. Although Rule 1.5 excludes contractual employees from the ordinary operation of the Pension Rules during the contractual period, the relevant provisions must be read purposively where contractual service is continuous, against a permanent post, and is ultimately followed by regularization. Continuous contractual service preceding regular appointment may therefore be counted for pensionary purposes. However, counting past contractual service for pension is legally distinct from granting retrospective regularization, seniority or other benefits of regular civil service from the initial date of contractual appointment.

**Application:** The Court observed that the respondents had been appointed through the PPSC on posts which were permanent in nature and their contractual service continued without break until they were regularized on the same posts. Excluding this past service altogether would amount to forfeiture of continuous service without lawful justification. By reading CSR 371-A together with Rule 2.3 of the Punjab Civil Services Pension Rules and applying a purposive

interpretation, the Court held that there was no logical basis for allowing temporary and officiating service followed by confirmation to count for pension while denying the same benefit to continuous contractual service followed by regularization. The Court relied upon earlier precedent recognizing continuous pre-regularization service for pensionary and financial benefits. At the same time, it distinguished pensionary recognition of past service from retrospective regularization. Granting seniority from the contractual appointment date would affect other employees who were not before the Tribunal, while retrospective regularization and past increments would effectively treat the respondents as civil servants from their initial contractual engagement, contrary to the governing civil service law.

**Conclusion:** The Supreme Court converted the civil petitions into appeals and partly allowed them. The Tribunal's judgment was maintained only to the extent that the respondents' continuous contractual service from 12.02.2010 to 10.09.2011 would count as qualifying service for pensionary benefits. The remaining reliefs concerning retrospective regularization, seniority and past increments were set aside. The ratio decidendi is that continuous contractual service, when followed without break by regularization on the same permanent post, may be counted towards qualifying service for pension, but such recognition does not retrospectively convert the contractual period into regular civil service or confer seniority, increments or other regular-service benefits from the initial contractual appointment date. The Court's broader observations regarding pension as a vested source of old-age security, the misuse of prolonged contractual employment, the State not benefiting from its own wrong, and comparative foreign pension practices support the reasoning but are obiter dicta.

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## 8. SUPREME COURT OF PAKISTAN

**Civil Petitions No.5091 to 5093 of 2025 and Civil Petitions No.986-P to 988-P of 2025 Sahibzada Hassan Ali and others / Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others / Khan Ghalib and others**

**Present:** *Justice Muhammad Ali Mazhar & Justice Musarrat Hilali*

**Source:** [https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 5091\\_2025.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 5091_2025.pdf)

**Facts:** The petitioners were initially appointed against project posts after completing the required formalities. The Khyber Pakhtunkhwa Employees Regularization of Services Act, 2018 subsequently regularized employees of numerous projects, and the petitioners were regularized through notifications issued in 2018 with effect from 07.03.2018, the date of commencement of the Act. Due to administrative delay, however, those notifications were published in the Official Gazette only on 21.08.2024. The Department had meanwhile determined inter-se seniority under Section 6 of the Act and issued seniority lists from 2019 onwards, consistently placing the petitioners above the private respondents. In 2024, the private respondents challenged the seniority position. The Khyber Pakhtunkhwa Service Tribunal allowed their appeals and held that, because the regularization notifications were

gazetted only in 2024, the petitioners could not be treated as regular civil servants prior to that publication and consequently set aside the seniority list.

**Issue:** Whether delayed publication in the Official Gazette of notifications regularizing employees under the Khyber Pakhtunkhwa Employees Regularization of Services Act, 2018 postponed their regularization and seniority until the date of publication, despite the statute and notifications expressly granting regularization from the commencement of the Act.

**Rule:** Sections 3 and 4 of the Act of 2018 deem qualifying adhoc and project employees to have been validly appointed on regular basis from the date of commencement of the Act, subject to verification of prescribed qualifications and credentials. Section 5 requires publication of their names in the Official Gazette, while Section 6 provides an independent statutory mechanism for determination of seniority, including inter-se seniority on the basis of continuous officiation. Where a statutory requirement of Gazette publication does not expressly declare that non-publication or delayed publication renders the underlying action void or unenforceable, the requirement may, depending upon the statutory scheme and consequences, be treated as directory. Administrative delay in publication cannot defeat a beneficial statutory right already conferred by the parent legislation.

**Application:** The Court observed that the Act itself regularized eligible project employees from 07.03.2018 and the subsequent notifications expressly reflected the same effective date. Their late publication in 2024 resulted solely from administrative and departmental lapses over which the employees had no control. The Court held that the notification did not create a new liability, withdraw an accrued right or adversely affect the public; rather, it formally implemented a beneficial and remedial statutory entitlement already created by the Act. Accordingly, delayed Gazette publication was a procedural lapse and could not retrospectively deprive the petitioners of their regular status or seniority. The Court further noted that the petitioners had continuously performed their duties and had consistently been treated as senior in the seniority lists for 2019 to 2023. Section 6 itself governed inter-se seniority and required it to be determined primarily by continuous officiation. The State could not take advantage of its own administrative delay or make employees suffer for departmental inefficiency. The Tribunal therefore erred in treating the date of Gazette publication as the controlling date for regularization and seniority.

**Conclusion:** The Supreme Court converted the civil petitions into appeals, allowed them, set aside the judgment of the Khyber Pakhtunkhwa Service Tribunal and restored the petitioners' seniority to its original position. The ratio decidendi is that where the parent statute itself confers regularization from a specified date and the subsequent notification merely formalizes that statutory benefit, delayed Gazette publication caused by administrative lapse does not postpone or defeat the accrued right, particularly where the statute does not prescribe invalidity as the consequence of delayed publication. Inter-se seniority must consequently be determined under Section 6 of the Act rather than by reference to the later date of Gazette publication. The Court's observations concerning the State as a "model employer", good governance, the principle that no person should suffer due to administrative delay, and the State's inability to benefit from its own wrong support the reasoning but are broader obiter dicta.

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## 9. THE HIGH COURT OF SINDH AT KARACHI

**Syed Aly Raza v. The State**

**Criminal Miscellaneous Application No. 946 of 2025**

**Present:** *Mr. Justice Muhammad Iqbal Kalhoro*  
*Mr. Justice Khalid Hussain Shahani*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIwNDYzY2Ztcy1kYzgZ>  
2026 SHC KHI 1576

**Facts:** On 16.10.2023, ANF recovered twelve kilograms of heroin concealed in a sealed export container declared to contain Himalayan pink salt. Syed Aly Raza, present at PICT after arranging the salt as a broker, was arrested, although nothing incriminating was recovered from him. Investigation attributed packing, storage, loading, sealing and transport to others. After the Special Court-II (CNS), Karachi refused acquittal under section 265-K, Cr.P.C., the Investigating Officer testified that neither investigation revealed any direct or indirect connection between Aly Raza and the contraband. Aly Raza challenged that refusal (paras. 1-8 and 24-27).

**Issue:** Whether the applicant should be acquitted under section 265-K, Cr.P.C. where the prosecution material and evidence already recorded, even taken at their reasonable maximum, disclosed no real probability of proving his conscious possession, knowledge, participation or abetment?

**Rule:** Section 265-K permits acquittal at any stage where, after hearing the parties and recording reasons, there is no probability of conviction. The test is whether legally provable material at its reasonable prosecutorial maximum leaves a real, not conjectural, probability of conviction. Trial need not be completed when further evidence cannot improve the case: *Muhammad Sharif v. The State* (PLD 1999 SC 1063). The prosecution bears the initial burden under Article 117 QSO, and Article 10-A protects fair trial. A narcotics presumption cannot create its own foundation: the State must first connect the accused with conscious possession, control, knowledge or culpable participation. Presence, acquaintance, lawful supply or FIR nomination is not proof; abetment requires knowing, intentional assistance or shared design (paras. 10-17 and 28-30).

**Application:** The applicant was not the exporter, importer, clearing agent, transporter, godown keeper, driver, seal custodian, packer or person shown to have loaded the suspect carton. Heroin was not recovered from his person, property or exclusive custody, and he arrived after others had packed, sealed and moved the container. Witnesses supported lawful salt procurement and his presence to collect unpaid payment. No call-data, forensic result, illicit payment, fingerprint, video, document, object or profit share connected him with concealment. The Investigating Officer's sworn admission concerned the results of two investigations, and no remaining witness or material could supply the missing nexus. The evidentiary theory was exhausted; the

earlier refusal did not bar reconsideration after this evidentiary change (paras. 18-27 and 32-33).

**Conclusion:** The High Court acquitted Syed Aly Raza under section 265-K, cancelled his bail bond, discharged the surety and directed return of his property; the co-accused's case remained unaffected (paras. 34-37). Ratio decidendi: where completed investigation and recorded evidence establish no nexus, knowledge or culpable participation, and no remaining evidence can cure that defect, there is no legal probability of conviction and continued trial is an abuse of process. Material obiter dicta: the gravity of narcotics trafficking cannot dilute proof; legitimate enforcement distinguishes proved participants from bystanders and lawful traders (para. 31).

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## 10. SINDH HIGH COURT

### **Muhammad Imran Akhter v. Province of Sindh and others** **Constitution Petition No.D-3070 of 2026**

**Present:** *Mr. Justice Muhammad Saleem Jessar*  
*Mr. Justice Nisar Ahmed Bhanbhro*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIwODU5Y2Ztcy1kYzgZ>  
**2026 SHC KHI 1611**

**Facts:** The petitioners, partners of an unregistered partnership firm, M/s Centric Associates, claimed ownership of approximately 4 acres and 20 ghuntas of land situated at Deh Malh, Tappo Darsano Channo, Taluka Murad Memon, District Malir, Karachi. They asserted that the property had been purchased through a registered Conveyance Deed dated 04.10.2021, pursuant to which the revenue record was mutated in their favour. A partition order dated 16.03.2022 was subsequently passed in respect of the relevant survey numbers. Respondents Nos.7 to 11 challenged the partition order before the revenue authority under Section 161 of the West Pakistan Land Revenue Act, 1967 through Revenue Appeals Nos.1 and 2 of 2024. During the pendency of those appeals, the petitioners instituted a civil suit challenging, inter alia, the authority of the revenue forum and obtained an interim order dated 06.11.2024. The suit was later transferred and renumbered as Suit No.2363 of 2025. Despite the subsistence of the interim order, Respondent No.2 proceeded to decide the revenue appeals through the impugned order dated 03.03.2026 in favour of Respondents Nos.7 to 11. The petitioners consequently invoked constitutional jurisdiction seeking setting aside of the impugned order, suspension of its operation and restraint against coercive action.

**Issues:** (i) Whether the High Court should exercise its constitutional jurisdiction to set aside the impugned revenue order dated 03.03.2026 on the ground that it was passed in violation of the interim order dated 06.11.2024?

**(ii)** Whether the petitioners could bypass the statutory appellate/revisional remedies available under Sections 161 and 164 of the West Pakistan Land Revenue Act, 1967?

**(iii)** Whether allegations that the impugned order was non-speaking and was passed without an effective opportunity of hearing constituted exceptional circumstances warranting interference under Article 199 of the Constitution?

**Rule:**

The Court held that although constitutional jurisdiction is wide, its exercise is discretionary and ordinarily should not be invoked where an adequate and efficacious statutory remedy is available. Under Sections 161 and 164 of the West Pakistan Land Revenue Act, 1967, orders of revenue authorities are subject to the prescribed appellate and revisional hierarchy. The rule of alternate remedy is not an absolute bar to constitutional jurisdiction; however, constitutional intervention may ordinarily be declined where the aggrieved party has an adequate statutory remedy and no exceptional circumstances are established. The Court further recognized that any alleged violation of an interim injunction should ordinarily be considered by the court which granted the injunction or is seized of the underlying proceedings. The Court relied upon *Muhammad Safeer and others v. Muhammad Azam and others* (PLD 2024 SC 838), *Sana Jamali v. Mujeeb Qamar and another* (2023 SCMR 316), and *The Executive Director (P&GS), State Life Principal Office, Karachi and others v. Muhammad Nisar* (2025 SCMR 249) in support of the principle concerning alternate remedies and the discretionary nature of constitutional jurisdiction.

**Application:**

Applying these principles, the Court observed that the petitioners were admittedly aware of the revenue appeals and had consciously chosen to institute civil proceedings instead of pursuing their remedies before the revenue forum. Having obtained interim protection from the Civil Court, they could not subsequently invoke constitutional jurisdiction for substantially overlapping relief while the civil proceedings remained pending. The Court declined to determine whether Respondent No.2 had acted in breach of the interim order dated 06.11.2024 because the competent Civil Court seized of Suit No.2363 of 2025 was the appropriate forum to determine the scope, effect and alleged violation of its own injunction. The Court also held that the petitioners' objections that the impugned order was non-speaking and that they were denied an effective opportunity of hearing could appropriately be raised before the competent statutory forum while challenging the revenue order. Since Sections 161 and 164 of the West Pakistan Land Revenue Act provided a statutory remedial hierarchy, examining the merits of the impugned order in constitutional jurisdiction would effectively convert the High Court into an appellate forum over a revenue order. The Court further viewed the petitioners' simultaneous recourse to the Civil Court and the constitutional jurisdiction of the High Court, concerning substantially interconnected grievances, as bearing the characteristics of forum

shopping and carrying a risk of conflicting orders and multiplicity of proceedings. No exceptional circumstance was found that justified bypassing the available statutory remedies.

**Conclusion:** The High Court declined to exercise its discretionary constitutional jurisdiction and dismissed Constitution Petition No. D-3070 of 2026, along with all pending applications. The Court left it open to the petitioners to approach the competent Civil Court regarding the alleged violation of the interim order dated 06.11.2024 and/or to avail themselves of any statutory remedy available against the impugned revenue order dated 03.03.2026 under the West Pakistan Land Revenue Act, 1967. Importantly, the Court expressly clarified that it had not adjudicated upon the merits of title, ownership or possession, the legality or correctness of the impugned revenue order, or whether the order violated the interim injunction. All such matters were left to be determined independently by the competent forums in accordance with law.

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## 11. SINDH HIGH COURT

**Muhammad Waseem Ahmed v. Federation of Pakistan and others**  
**Constitutional Petition No.D-385 of 2025**

**Present:** *Mr. Justice Muhammad Saleem Jessar*  
*Mr. Justice Nisar Ahmed Bhanbhro*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIwOTk5Y2Ztcy1kYzgz>  
**2026 SHC KHI 1619 2026 SHC KHI 1620**

**Facts:** The petitioner, Muhammad Waseem Ahmed, approached the High Court of Sindh under Article 199 of the Constitution seeking deletion of his name from the Fourth Schedule of the Anti-Terrorism Act, 1997 (“ATA”) and from the NACTA list, and permission to travel to Malawi. The petitioner asserted that he had been falsely implicated in several criminal cases in 2010 and that, after facing trials until 2020, he had either been acquitted or released on bail in almost all of them. In 2024, although he obtained a visa to visit Malawi, he was allegedly refused foreign currency by the State Bank of Pakistan because his name appeared in the Fourth Schedule and NACTA list. The respondents maintained that the petitioner had been placed in the Fourth Schedule pursuant to a recommendation of the Provincial High-Level Committee, based on reports from relevant departments alleging his affiliation with the proscribed organization Lashkar-e-Jhangvi and his involvement in several criminal cases. The petitioner challenged the action on the grounds that it was taken without due process, that he was condemned unheard, and that it unlawfully restricted his fundamental right to freedom of movement. The respondents, however, argued that the petitioner had an adequate statutory remedy before the Proscription Review Committee and that the constitutional petition was therefore premature and not maintainable.



**Issues:** (i) Whether the placement of the petitioner's name in the Fourth Schedule of the Anti-Terrorism Act, 1997 by the Provincial Home Department was lawful and within jurisdiction, and whether the petitioner could directly invoke the constitutional jurisdiction of the High Court without first availing the statutory remedy of review before the Proscription Review Committee under Section 11-EE of the ATA, 1997?

(ii). Whether the petitioner's plea that he had been condemned unheard and that his fundamental right to freedom of movement had been infringed justified interference by the High Court under Article 199 of the Constitution?

**Rule:** The Court principally relied upon Sections 11-EE and 33 of the Anti-Terrorism Act, 1997. Section 11-EE empowers the Federal Government to place a person in the Fourth Schedule, on an ex parte basis, where there are reasonable grounds to believe that such person is concerned in terrorism, is an activist, office-bearer or associate of a proscribed organization, or is otherwise concerned or suspected to be associated with an organization involved in terrorism or sectarianism. The provision also prescribes consequences and restrictions applicable to a person placed in the Fourth Schedule. Importantly, Section 11-EE(3) provides a statutory remedy of review before the Federal Government, while Section 11-EE(3-A) provides an appeal to the High Court within thirty days where the review application is refused. The Court further relied upon Section 33 of the ATA, 1997, which authorizes the Government to delegate, by notification, all or any of its powers under the Act, subject to specified conditions. The Court noted that the Federal Government had already delegated its relevant powers to the Provincial Home Secretaries, including the Home Secretary of Sindh, through notification dated 29 October 2014. The Court also applied the general principle governing constitutional jurisdiction that writ jurisdiction is not ordinarily an alternative or additional remedy where the relevant statute provides an adequate and efficacious remedy, particularly where the petitioner has failed to demonstrate sufficient cause for bypassing that statutory mechanism.

**Application:** Applying these principles, the Court found that the petitioner's placement in the Fourth Schedule was based upon a recommendation of the Inspector General of Police, Sindh, dated 29 August 2024, which itself was based upon information obtained from credible sources and placed before the Provincial Committee dealing with such matters. The recommendation was subsequently accepted by the Home Department through its notification dated 14 October 2024. Although Section 11-EE expressly confers the power upon the Federal Government, the Court held that this did not render the Provincial Government's action unlawful because Section 33 expressly permits delegation of powers, and the Federal Government had already delegated the relevant powers to Provincial Home Secretaries by notification dated 29 October 2014. Consequently, the Additional Chief Secretary, Home Department, Government of Sindh, was held to have acted within the scope of the delegated statutory authority. The Court further held that the ATA itself establishes a specific mechanism for challenging

placement in the Fourth Schedule. The petitioner was required, in the first instance, to approach the Proscription Review Committee. If dissatisfied with the decision on review, he could thereafter invoke the appellate jurisdiction of the High Court under Section 11-EE(3-A). Instead, the petitioner directly invoked Article 199 without first exhausting the statutory remedy. The Court emphasized that constitutional jurisdiction cannot ordinarily be used to bypass or circumvent a remedy specifically provided by the governing statute. The petitioner's contention that he had been condemned unheard was also found insufficient, by itself, to justify direct interference under Article 199. The Court observed that the mere assertion that no prior intimation had been given did not automatically bring the matter within the exceptional scope of constitutional jurisdiction. The petitioner had also failed to establish any sufficient cause preventing him from pursuing the statutory remedy. Moreover, the respondents' allegations concerning his association with a proscribed organization and the basis of his placement in the Fourth Schedule had not been effectively controverted through an affidavit-in-rejoinder demonstrating that the action was taken for extraneous considerations. Accordingly, the Court considered that the statutory framework had to be followed before resorting to constitutional judicial review and that no exceptional circumstance had been demonstrated warranting bypass of that framework.

**Conclusion:** The High Court of Sindh dismissed the constitutional petition on the ground that the petitioner had failed to establish a case warranting interference under Article 199 of the Constitution. The Court held that the Provincial Home Department had lawful authority to place the petitioner in the Fourth Schedule because the Federal Government had delegated its powers under Section 33 of the ATA, 1997. More importantly, the petitioner had failed to first avail the statutory remedy of review before the Proscription Review Committee under Section 11-EE. The Court therefore declined to exercise its constitutional jurisdiction as an alternative or additional remedy. The petition was dismissed, with liberty to the petitioner to approach the concerned authority for removal of his name, if so advised.

## 12. SINDH HIGH COURT

### **Syed Naeem Hussain Shah v. Province of Sindh and others** **Constitutional Petition No.D-2516 of 2025**

**Present:** *Mr. Justice Muhammad Saleem Jessar*  
*Mr. Justice Nisar Ahmed Bhanbhro*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIwMDEzY2Ztcy1kYzgZ>  
**2026 SHC KHI 1557**

**Facts:** The petitioner, Syed Naeem Hussain Shah, applied through NTS for appointment as a Police Constable in the Counter Terrorism Department (CTD), Sindh Police. He appeared in the

written test on 24.12.2016 and was declared successful on 16.01.2017. He also claimed to have successfully passed the physical and running tests. However, he was not appointed because he secured 24.5 marks out of 50 in the interview, whereas the prescribed minimum qualifying marks were 25. The petitioner approached the concerned authorities and the Provincial Ombudsman for redressal, but his grievance remained unresolved. He consequently filed the constitutional petition in 2025, seeking appointment and, principally, condonation of the deficiency of half a mark. He also alleged that candidates who had obtained fewer marks in the written examination were selected, suggesting arbitrariness and favouritism. The respondents opposed the petition on the ground that the petitioner had failed a mandatory stage of the recruitment process and that neither the recruitment rules nor policy authorized rounding off or condonation of the deficient marks. The petition was filed approximately nine years after the recruitment process of 2016.

**Issues:** (i). Whether the petitioner, having secured 24.5 marks against the prescribed minimum of 25 marks in the interview, could claim a right to appointment by seeking condonation or rounding off of the deficiency of half a mark through the constitutional jurisdiction of the High Court under Article 199 of the Constitution?

(ii). Whether the Court could interfere with the concluded recruitment process on the allegations of arbitrary selection or favouritism, particularly when the petition had been filed after an unexplained delay of approximately nine years?

**Rule:** The Court held that where recruitment rules prescribe minimum qualifying marks for a particular stage of the selection process, a candidate must satisfy that requirement and cannot claim appointment merely because he has successfully passed the preceding stages. In the absence of an enabling rule, policy or statutory provision authorizing condonation or rounding off, the Court cannot relax or substitute the prescribed recruitment criteria in favour of an individual candidate. Constitutional jurisdiction is exercised to enforce an existing legal or fundamental right and cannot ordinarily be used to create a right to appointment where none exists under the applicable recruitment framework. The Court further relied upon the principles laid down by the Supreme Court in *Asif Hassan v. Sabir Hussain* (2019 SCMR 1970), *Arshad Ali Tabassum v. Registrar, Lahore High Court* (2015 SCMR 112), and *Muhammad Ashraf Sangri v. Federation of Pakistan* (2014 SCMR 157), that suitability assessed by an interview/interview board cannot ordinarily be substituted by the Court's own opinion unless mala fide, bias, discrimination or an apparent illegality is established. The Court also applied the doctrine of laches, under which extraordinary constitutional relief may be refused where the petitioner approaches the Court after an unreasonable and unexplained delay, particularly where intervening rights and finality of public appointments are involved. The Court referred, inter alia, to *Ahmed and 25 others v. Ghama and 5 others* (2005 SCMR 119), *Asghar Khan v. Province of Sindh* (2014 PLC (C.S.) 1292), *State Bank of Pakistan v. Imtiaz Ali Khan* (PLJ 2012 SC 289), *Jawad Mir Muhammad v. Haroon Mirza* (PLD 2007 SC

472), and *Chairman PCSIR v. Dr. Mrs. Khalida Razi* (1995 SCMR 698).

**Application:** Applying these principles, the Court found that the petitioner admittedly obtained only 24.5 marks in the interview against the mandatory minimum of 25 marks. His entire claim for appointment rested upon condoning or rounding off this half-mark deficiency. However, he was unable to identify any recruitment rule, policy or other legal provision empowering the appointing authority or the Court to condone such deficiency. The Court therefore held that directing the respondents to treat 24.5 marks as 25 would effectively amount to rewriting or relaxing the recruitment criteria after completion of the selection process, which could prejudice other candidates who were subject to the same criteria. His success in the written, physical and running tests did not create a vested or indefeasible right to appointment because he had failed to satisfy one of the prescribed stages of recruitment. The allegation that candidates with lower written-test marks had been selected also did not establish mala fide, discrimination or departure from the prescribed criteria. Moreover, the Court emphasized that it could not substitute its assessment for that of the Interview Committee regarding the petitioner's suitability. Independently of the merits, the Court found that the petition suffered from gross and unexplained laches. The recruitment process took place in 2016, whereas the constitutional petition was instituted in 2025. Although the petitioner claimed to have made representations and approached the Ombudsman, such proceedings did not satisfactorily explain the extraordinary delay or keep a concluded recruitment process indefinitely open. By that time, appointments had been made and third-party rights and the requirement of finality in public recruitment had intervened.

**Conclusion:** The High Court of Sindh dismissed the constitutional petition, holding that the petitioner had acquired no vested or enforceable right to appointment because he failed to obtain the prescribed minimum qualifying marks in the interview. Since no rule or policy permitted condonation or rounding off of the half-mark deficiency, the Court could not relax the recruitment criteria in his favour. The Court further held that the petition was independently liable to dismissal on the ground of gross and unexplained laches, having been filed approximately nine years after the recruitment process. Accordingly, the petition, along with the listed application(s), if any, was dismissed as devoid of merit and barred by laches.

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### 13. SINDH HIGH COURT

**Nadeem Abbas v. Anjuman Taraqqi-e-Urdu Pakistan and others**  
**Constitutional Petition No.D-4615 of 2026**

**Present:** *Mr. Justice Adnan-ul-Karim Memon*  
*Mr. Justice Muhammad Jaffar Raza*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIwMjc3Y2Ztcy1kYzgZ>

## 2026 SHC KHI 1570

- Facts:** The petitioner, Nadeem Abbas, a registered Permanent Member of Anjuman Taraqqi-e-Urdu Pakistan, invoked the constitutional jurisdiction of the High Court under Article 199 of the Constitution, challenging the proposed election and internal affairs of the Association. He alleged that the three-year tenure of the existing Governing Body had expired in May 2025, yet its office-bearers continued to function. He further alleged that, despite being a voting Permanent Member, he was not served notice of the Second General Body Meeting scheduled for 11.07.2026, in which elections were to be conducted. The petitioner sought, inter alia, production of the authenticated agenda, electoral roll and proof of service of notices, proper notice to all eligible members, restraint against holding or finalizing the election, quashing of the impugned notice dated 22.06.2026 and consequential proceedings, and directions to the concerned authorities under Section 16-A of the Societies Registration Act, 1860. He relied upon the Constitution of the Association, the Societies Registration Act, 1860, principles of natural justice, and Articles 17 and 25 of the Constitution.
- Issues:**
- (i) Whether a constitutional petition under Article 199 of the Constitution is maintainable against a registered private association and its office-bearers in respect of an internal dispute concerning membership, tenure of the Governing Body, service of notice of a General Body Meeting, and the validity of its electoral process?
  - (ii) Whether the mere registration of the Association under the Societies Registration Act, 1860, and the existence of supervisory powers under Section 16-A of the said Act, was sufficient to bring the Association and its office-bearers within the constitutional jurisdiction of the High Court?
- Rule:** The Court held that the extraordinary constitutional jurisdiction under Article 199 is ordinarily attracted where the impugned action involves the performance of a public duty or statutory obligation of a public character by a person or authority amenable to such jurisdiction. Mere registration of a private association under the Societies Registration Act, 1860, does not transform the association or its office-bearers into public authorities. Similarly, the fact that an association performs functions of social or public importance does not, by itself, confer writ jurisdiction upon the High Court. A writ of mandamus cannot ordinarily be issued against a private body unless a corresponding public or statutory duty enforceable through Article 199 is established. Likewise, certiorari and prohibition cannot be used as substitutes for remedies relating to internal disputes or elections of private associations. The Court further recognized that where the controversy involves disputed questions of fact—such as membership records, service of notices, minutes, resolutions, electoral rolls and the tenure of office-bearers—the matter is generally inappropriate for determination in constitutional jurisdiction, particularly where an alternative remedy or mechanism exists under the applicable law or the association's governing framework.

**Application:** Applying these principles, the Court found that the petitioner's entire grievance arose from an internal dispute concerning the management and electoral affairs of Anjuman Taraqqi-e-Urdu Pakistan. The reliefs sought required the Court to examine the Association's Constitution, membership record, electoral roll, notices, mode of service, minutes of meetings, resolutions and the alleged expiry of the Governing Body's tenure. These matters were essentially private and statutory/internal in nature and did not demonstrate the existence of a public duty owed by the Association to the petitioner. The Court rejected the contention that registration under the Societies Registration Act, 1860, by itself made the Association amenable to Article 199. It also held that reliance upon Articles 17 and 25 did not convert the internal election dispute into a constitutional cause of action. Article 17 protects the right to form associations and Article 25 guarantees equality before law and equal protection of law, but neither provision, in the circumstances of the case, provided an independent basis for constitutional intervention in the Association's internal electoral affairs. The petitioner's reliance on Section 16-A of the Societies Registration Act was likewise insufficient because he failed to establish a corresponding public duty requiring the concerned authorities to intervene in the particular manner sought. Moreover, the allegations concerning the expiry of the Governing Body's tenure, non-service of notices and validity of the electoral proceedings involved disputed factual matters requiring examination of the complete record and evidence. Accordingly, the Court concluded that the petitioner had essentially attempted to give a constitutional complexion to an internal association dispute.

**Conclusion:** The High Court of Sindh held that the petition was not maintainable under Article 199 of the Constitution because the dispute concerned the internal management, membership, tenure and electoral process of a private registered association and did not involve the enforcement of a public duty amenable to constitutional jurisdiction. The Court therefore dismissed the petition in limine, without expressing any opinion on the merits of the allegations regarding the impugned notice, expiry of the Governing Body's tenure or validity of the proposed election. The petitioner was, however, given liberty to avail himself of any other remedy available under the Constitution of the Association or the applicable law. No order as to costs.

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**14. SINDH HIGH COURT**

**Muhammad Siddique and others v. Government of Sindh and others**  
**Constitution Petition No.D-2879 of 2017**

**Present:** *Mr. Justice Adnan-ul-Karim Memon*  
*Mr. Justice Muhammad Jaffar Raza*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIwOTY5Y2Ztcy1kYzgZ>  
**2026 SHC KHI 1613**

|                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Facts:</b>       | <p>The petitioners, who were retired employees of Pakistan Railways, approached the High Court under Article 199 of the Constitution seeking, inter alia, protection and possession of plots allegedly allotted to them in the Pakistan Railways Employees Cooperative Housing Society (PRECHS). They alleged that although they had paid instalments towards the allotted plots, private persons, allegedly in collusion with government officials, had encroached upon and taken possession of the subject land. They sought an inquiry into the matter, removal of encroachments, delivery of possession of their respective plots, and, alternatively, allotment of alternative plots. Pakistan Railways opposed the petition and submitted that its lease in favour of PRECHS had already been cancelled by the competent authority and that the land had been reserved for future railway terminal facilities. It was further pointed out that proceedings concerning the same land were already pending before civil courts, including C.P. No. D-4040/2017 and Civil Suit No. 518/2025/11891/2025, in which status quo/stay orders were operating. PRECHS, on the other hand, maintained that its lease was valid, that it had developed the land and made substantial improvements, and that its title had previously been recognized in litigation. It also disputed the petitioners' status as aggrieved persons and questioned their payment defaults and the authenticity of their documents.</p> |
| <b>Issues:</b>      | <p><b>(i)</b> Whether the petitioners' claims regarding entitlement to plots, validity and cancellation of the lease in favour of PRECHS, ownership and possession of the subject land, alleged encroachments, allotment records, and recovery/refund of amounts paid could appropriately be adjudicated in the constitutional jurisdiction of the High Court under Article 199 of the Constitution?</p> <p><b>(ii)</b> Whether the existence of already pending civil proceedings concerning the same subject matter precluded the High Court from undertaking a parallel adjudication of the disputed questions.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Rule:</b>        | <p>The Court applied the settled principle governing constitutional jurisdiction under Article 199 of the Constitution, namely that such jurisdiction is ordinarily invoked for enforcement of an admitted or undisputed legal right and is not an appropriate forum for determination of substantial and disputed questions of fact requiring recording and appraisal of evidence. Where the controversy involves disputed title, ownership, possession, validity of lease or allotment, payment of consideration, authenticity of documents, or other matters requiring examination of evidence, the proper remedy lies before the competent civil forum. The Court also proceeded on the principle that where proceedings concerning the same subject matter are already pending before competent civil courts and interim orders such as status quo or stay are operating, a constitutional court should avoid parallel adjudication which may result in conflicting findings.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Application:</b> | <p>Applying these principles, the Court found that the controversy was not confined to enforcement of any admitted or undisputed legal right of the petitioners. Rather, determination</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

of the petitioners' entitlement to the plots required examination of allotment documents, title instruments, payment receipts and other relevant records. There were also serious disputes regarding the validity and subsequent cancellation of the lease in favour of PRECHS, the ownership and possession of the subject land, alleged encroachments, the competing claims of the parties, and the amounts allegedly deposited by the petitioners. The Court further noted that the same subject matter was already being litigated before competent civil courts and that status quo/stay orders were in force. Consequently, adjudication of the disputed questions by the High Court could lead to parallel proceedings and potentially conflicting decisions. The Court therefore considered it appropriate for the parties to pursue their claims before the civil courts already seized of the matter, including seeking vacation, modification or lifting of the existing interim orders where necessary. Importantly, the Court refrained from expressing any opinion on the merits or validity of the competing claims.

**Conclusion:** The High Court disposed of the constitutional petition along with all listed/pending applications, holding that the disputed questions concerning title, possession, allotment, lease, encroachment, payments, refund and consequential rights and liabilities were matters for determination by the competent civil forum and were not appropriately amenable to adjudication under Article 199. The petitioners and other concerned parties were left at liberty to avail themselves of the remedies available before the competent courts. The Court expressly clarified that its order would not prejudice or influence the determination of the pending civil proceedings, and that all questions of fact and law were left open for independent determination by the competent forum in accordance with law.

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## 15. SINDH HIGH COURT

**M/s Suit Southern Gas Company Limited v. Muhammad Ikram and others**  
**Constitutional Petition No.D-5101 of 2026**

**Present:** *Mr. Justice Adnan-ul-Karim Memon*  
*Mr. Justice Muhammad Jaffar Raza*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIxMDM5Y2Ztcy1kYzgZ>  
**2026 SHC KHI 1625**

**Facts:** The petitioner, M/s Sui Southern Gas Company Ltd., dismissed Respondent No.1 from service on 14.10.2024 after a departmental inquiry in which he was found guilty of gross misconduct for allegedly furnishing fake or unauthenticated Intermediate and B.Sc. qualifications in his employment record. Respondent No.1 challenged his dismissal before the National Industrial Relations Commission (NIRC), and the learned Single Member of the



NIRC, vide order dated 16.02.2026, allowed the grievance petition, set aside the dismissal and directed reinstatement with back benefits. Aggrieved, the petitioner filed statutory Appeal No. 12A(03)/2026-K under Section 58(2)(b) of the Industrial Relations Act, 2012, along with an application for stay, before the Full Bench of the NIRC. The appeal could not be heard because of the non-availability of the requisite Full Bench members, and it was adjourned to 01.10.2026. The petitioner further pointed out that the Single Member who had passed the impugned order was also sitting as a member of the Full Bench before which the appeal was pending. Meanwhile, contempt proceedings were initiated against the petitioner for alleged non-compliance with the reinstatement order. Consequently, the petitioner invoked the constitutional jurisdiction of the High Court under Article 199, seeking constitution of an appropriate and impartial Full Bench, expeditious disposal of its statutory appeal and stay application, and protection against coercive action pending such adjudication.

**Issues:** Whether, in the circumstances where the petitioner had already availed its statutory right of appeal under Section 58(2)(b) of the Industrial Relations Act, 2012, but the appeal and accompanying stay application could not be heard by a properly constituted Full Bench, particularly when the Member who had passed the impugned order was participating in the appellate Bench, the High Court could issue appropriate directions under Article 199 to ensure an effective and impartial hearing of the statutory appeal and protect the petitioner from coercive proceedings until the appeal was decided?

**Rule:** The Court applied the constitutional principle of fair hearing and due process embodied in Article 10-A of the Constitution of Pakistan, 1973, which requires that a person be afforded a meaningful and effective opportunity of being heard before a competent and properly constituted forum. The Court also recognized the petitioner's statutory right of appeal under Section 58(2)(b) of the Industrial Relations Act, 2012. At the same time, the scope of constitutional jurisdiction under Article 199 of the Constitution requires the High Court to exercise restraint and not ordinarily substitute itself for the statutory appellate forum or decide the merits of a dispute where an adequate statutory remedy exists. However, where the statutory remedy is rendered ineffective because the matter cannot be heard by a properly constituted and impartial forum, the constitutional jurisdiction may be invoked to secure due process and effective adjudication.

**Application:** Applying these principles, the Court observed that the petitioner had already availed the statutory appellate remedy against the order directing reinstatement of Respondent No.1. However, the appeal and stay application remained unheard because of the non-availability of the requisite Full Bench at Karachi, while the petitioner was simultaneously exposed to contempt and coercive proceedings for allegedly failing to comply with the very order under challenge. The Court considered it significant that the Member who had authored the impugned order was also participating in the Full Bench constituted to hear the appeal against that order. In these circumstances, the Court held that the apprehension concerning

institutional impartiality could not be lightly disregarded. Nevertheless, rather than examining the merits of the dismissal or reinstatement dispute itself, the Court confined its intervention to ensuring that the statutory appeal was heard by the competent forum in accordance with law. The Court therefore directed the Full Bench of the NIRC to expeditiously hear and decide the statutory appeal along with the pending application for interim relief/stay. To preserve the effectiveness of the appellate remedy and prevent the proceedings from becoming infructuous, the petitioner was also protected from coercive action concerning compliance with the impugned order until the appellate forum adjudicated the matter.

**Conclusion:** The High Court did not decide the merits of the dispute between the petitioner and Respondent No.1. Instead, it disposed of the constitutional petition with directions to the Full Bench of the NIRC to hear and decide Appeal No. 12A(03)/2026-K under Section 58(2)(b) of the Industrial Relations Act, 2012, together with the application for interim relief/stay, strictly in accordance with law, preferably within three weeks of receipt of the High Court's order. Until such adjudication, the petitioner was protected from coercive action regarding compliance with the order passed by the learned Single Member of the NIRC. Thus, the judgment reinforces that a statutory right of appeal must constitute an effective, meaningful and impartial remedy, consistent with the guarantee of fair hearing and due process under Article 10-A of the Constitution.

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## 16. HIGH COURT SINDH

### SSTRA NOS. 86/2025 & CONNECTED CASES

**Sindh Revenue Board, Karachi & Others v. M/s. Itecknologi Tracking Services (Private) Limited & Others**

**Present:** *MR. JUSTICE AGHA FAISAL*  
*DR. SHAH NAWAZ MEMON (AUTHOR),*

<https://caselaw.shc.gov.pk/caselaw/view-file/MzIwMzM5Y2Ztcy1kYzgZ>  
2026 SHC KHI 1573

**Facts:** The present judgment concerns twelve connected Sales Tax Reference Applications filed by the Sindh Revenue Board before the High Court of Sindh at Karachi under Section 63 of the Sindh Sales Tax on Services Act, 2011. The respondents were different registered taxpayers who had either failed to deposit sales tax within the prescribed time or had deposited only part of the tax by the due date. Consequently, the Sindh Revenue Board imposed default surcharge under Section 44 of the Act. The taxpayers challenged the surcharge before the Appellate Tribunal, Sindh Revenue Board, which deleted the surcharge on the ground that the defaults were not shown to be wilful and that there was no mens rea on the part of the taxpayers. The Sindh Revenue Board therefore approached the High Court. The case of *M/s. Itecknologi Tracking Services (Private) Limited* was treated as the illustrative case. In that case, tax payments relating to various tax periods between January 2019 and February 2024 were made

after the prescribed due dates, resulting in a demand of default surcharge of Rs. 15,550,305/-. The taxpayer relied, among other things, upon financial difficulties, COVID-19 disruption, delayed receivables and inadvertent mistakes. The High Court heard all twelve matters together because they involved substantially the same question concerning the legal character of default surcharge under Section 44.

**Issue:** Whether the liability to pay default surcharge under Section 44 of the Sindh Sales Tax on Services Act, 2011 is a strict statutory liability which automatically arises upon non-payment or short payment of tax by the prescribed due date, irrespective of the taxpayer's intention. Whether the Sindh Revenue Board must establish that the default was willful and accompanied by mens rea before default surcharge can be imposed.

Whether circumstances such as COVID-19 disruption, financial hardship, inadvertent or arithmetical errors, withholding or reverse-charge arrangements, interim court orders and the Sindh COVID-19 Emergency Relief Act, 2020 could constitute grounds for avoiding or reducing the statutory surcharge.

**Rule:** The Court examined Section 44 of the Sindh Sales Tax on Services Act, 2011, which provides that where a registered person does not pay the tax due or any part thereof, “whether wilfully or otherwise,” in time or in the manner prescribed, the person “shall” pay default surcharge. The Court held that the words “whether wilfully or otherwise” are clear and deliberately exclude any requirement of intention or mens rea. The use of the mandatory word “shall” further demonstrates that the levy is compulsory once the statutory default occurs. The Court also distinguished default surcharge from penalties under Section 43, observing that default surcharge is compensatory rather than penal because it is calculated according to the amount of unpaid tax and the duration of the delay. The Court relied principally upon the Supreme Court's decision in *Commissioner Inland Revenue v. M/s. Byco Petroleum Pakistan Limited*, which interpreted the materially similar Section 34 of the Sales Tax Act, 1990 as creating a strict-liability regime, applicable even to deliberate, unintentional or inadvertent defaults. The Court also relied upon the principle that fiscal statutes must be interpreted strictly and literally and that courts cannot create equitable exceptions where the Legislature has not provided them. Sections 45, 65 and 17(3) of the Sindh Act demonstrate that statutory relief, waiver or alteration of the payment period must be obtained through the mechanisms expressly provided by the Legislature or the Board. The Court distinguished *Taj International* because that case dealt with criminal prosecution and penal proceedings rather than civil liability for default surcharge.

**Application:** Applying these principles, the High Court held that the Appellate Tribunal had erred in deleting the default surcharge merely because the taxpayers' defaults were not wilful. Since the taxpayers had failed to pay the tax, or in some instances had paid only part of the tax, by the prescribed due date, the statutory conditions of Section 44 were fulfilled and the surcharge arose automatically. The Court rejected the argument that COVID-19 and financial hardship could excuse the liability because Section 44 contains no force-majeure or reasonable-cause exception. In the illustrative case, the taxpayer had also failed to produce sufficient documentary evidence establishing that payment was legally or factually impossible. The Court further held that an arithmetical or computational mistake resulting in short payment

does not prevent Section 44 from applying because the provision expressly covers failure to pay “any part” of the tax due, and the Supreme Court in *Byco Petroleum* had already held that the provision leaves no room for inadvertent mistakes. Similarly, private arrangements concerning withholding or payment by another party cannot transfer a statutory tax liability imposed by Section 9. If the registered person is legally liable for the tax, an agreement with the recipient cannot defeat the Revenue's statutory claim. The Court also rejected reliance upon an interim order obtained by a recipient where that order did not restrain the registered taxpayer itself from paying the tax. Finally, the Court held that the Sindh COVID-19 Emergency Relief Act, 2020 did not automatically extend the due dates for provincial sales tax because that legislation specifically contemplated provincial tax relief through notification. The Court therefore concluded that none of the asserted circumstances displaced the strict statutory operation of Section 44.

**Conclusion:** The High Court of Sindh answered the reference in favour of the Sindh Revenue Board and against the taxpayers. It conclusively held that default surcharge under Section 44 of the Sindh Sales Tax on Services Act, 2011 is a strict statutory liability of a compensatory character, which is attracted upon non-payment or short payment of tax by the prescribed due date, whether the default is deliberate, unintentional or inadvertent. Consequently, proof of willfulness or mens rea is not a prerequisite for imposing default surcharge. The Appellate Tribunal had therefore acted incorrectly in deleting the surcharge on the basis that the taxpayers' defaults were not deliberate. The Court further clarified that the authorities and Tribunal cannot waive or reduce the surcharge on grounds of hardship, equity or absence of intention; statutory relief must instead be sought through the mechanisms provided under Sections 17(3), 45 and 65 of the Act. The Court expressly limited its decision to default surcharge under Section 44 and stated that it was not deciding whether mens rea is required for penalties under Section 43.

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## 17. SINDH HIGH COURT

**Punhal Magsi v/s. The State**

**Criminal Jail Appeal No.D-40 of 2021 a/w Criminal Conf. Case No.D-36 of 2021 and Criminal Jail Appeal No.S-54 of 2021**

**Present:** *Mr Justice Abdul Mobeen Lakho*  
*Mr Justice Abdul Hamid Bhurgri*

**Source** : <https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzIwMzQ3Y2Ztcy1kYzg&citation=2026+SHC+LAR+1574>  
[Sindh High Court Citation \(2026 SHC LAR 1574\)](#)

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**Facts:** On 21.03.2018, Mst. Haleeman, along with her sister, son Saddam Hussain and brother-in-law, was proceeding towards Ghanwar Wah for grazing buffaloes when they allegedly encountered Punhal Admani Magsi and his brothers near Imam Bargah. The appellant allegedly declared Saddam Hussain to be “Karo” with his wife and fired at him with a pistol, while co-accused Sahib also fired shots, resulting in Saddam’s death at the spot. The FIR was lodged promptly, and during investigation a .30-bore pistol was recovered from the appellant, which was subsequently linked with crime empties through ballistic examination. After trial, the appellant was convicted under Sections 302(b) and 311 PPC and sentenced to death,

besides being convicted under Section 24 of the Sindh Arms Act, 2013, leading to the present appeals and Murder Reference.

- Issue:** Whether the prosecution had proved beyond reasonable doubt that Punhal Admani Magsi committed the Qatl-i-Amd of Saddam Hussain, whether the evidence justified his conviction under Sections 302(b) and 311 PPC and Section 24 of the Sindh Arms Act, 2013, and whether the death sentence warranted confirmation or reduction to life imprisonment.
- Rule:** The High Court, while deciding a Murder Reference under Section 374 Cr.P.C., is required to independently reappraise the entire evidence before confirming a death sentence. A conviction may be based on reliable ocular testimony, and the mere fact that witnesses are related to the deceased does not make them unreliable. Minor discrepancies concerning peripheral matters do not invalidate otherwise consistent testimony. Medical and forensic evidence may corroborate the ocular account. For sentencing, the Court must consider the manner of the offence and the existence or absence of mitigating circumstances.
- Application:** The Court found the prosecution evidence reliable. The FIR was lodged promptly and contained the names and specific roles of the accused. Three eyewitnesses consistently attributed the firing to the appellant, and their relationship with the deceased did not render their evidence unreliable. Their minor discrepancies concerned only collateral matters. The medical evidence corroborated the firearm injuries, while the recovered pistol was forensically connected with three crime empties. The appellant's alibi was unsupported by independent evidence and was considered inherently improbable. The Court also found that the appellant had deliberately killed the deceased after declaring him "Karo," establishing a premeditated honour killing. No mitigating circumstance was found.
- Conclusion:** The High Court dismissed both criminal appeals and confirmed the Murder Reference. The appellant's conviction under Section 302(b) PPC and death sentence were maintained, along with his conviction and sentence under Section 311 PPC and compensation under Section 544-A Cr.P.C. His conviction under Section 24 of the Sindh Arms Act, 2013 was also maintained. The benefit of Section 382-B Cr.P.C. remained available to him according to law.
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## 18. THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

**Nadeem v. The State**  
**Criminal Appeal No. D-29 of 2025**

**Present:** *Hon'ble Mr. Justice Abdul Mobeen Lakho*  
*Hon'ble Mr. Justice Riazat Ali Sahar*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIxMjA5Y2Ztcy1kYzg>  
 2026 SHC HYD 1633

**Facts:** On 28.06.2024, police claimed to have apprehended Nadeem outside his house and recovered four pieces of charas weighing 2,963 grams. The property was allegedly sealed and deposited in the malkhana. The Special Judge for Control of Narcotic Substances convicted him under

section 9(1)(3)(C) of the Control of Narcotic Substances Act, 1997 and sentenced him to nine years' rigorous imprisonment with a fine of Rs.200,000. He appealed, disputing the recovery, identity and chain of custody of the contraband.

**Issue:** Could the conviction stand when the substance produced in Court differed from that allegedly recovered and the prosecution failed to prove safe custody and transmission?

**Rule:** The prosecution must prove beyond reasonable doubt an unbroken and verifiable chain from seizure and sealing, through malkhana custody, to delivery at the chemical laboratory. A positive chemical report proves only the nature of the substance tested and cannot connect it with the accused if the chain is doubtful. Rule 22.70 of the Police Rules, 1934 requires Register No. XIX for Malkhana property. Delay becomes material when intervening custody is not proved. Exclusion of section 103, Cr.P.C. by section 25 of the CNS Act does not exempt official evidence from judicial scrutiny. Even one reasonable doubt requires acquittal: Ikramullah v. The State (2015 SCMR 1002); Zahir Shah alias Shat v. The State (2019 SCMR 2004); Qaiser Khan v. The State (2021 SCMR 363); Asif Ali v. The State (2024 SCMR 1408); Farman Ali v. The State (2025 SCMR 1730); and Tariq Pervez v. The State (1995 SCMR 1345)

**Application:** Four pieces allegedly recovered became five when opened in Court; two were of a different colour, and one parcel lacked the police station's name on its seals. The original Register No. XIX was withheld and only a computerized entry was produced. The parcel remained in police custody for about three days and was transported in an unidentified private vehicle without a ticket or other independent record. Recovery witnesses gave inconsistent timings, and no private witness or dummy purchaser was associated despite the populated locality. Section 17(2) of the Sindh Control of Narcotic Substances Act, 2024 did not retrospectively govern the 28.06.2024 recovery, but absence of video remained relevant cumulatively. These defects made the identity and integrity of the tested substance uncertain; the chemical report could not cure the missing link (paras. 12-20).

**Conclusion:** The High Court allowed the appeal, set aside the conviction and sentence, acquitted Nadeem on benefit of doubt, and ordered his release. The ratio decidendi is that cumulative defects affecting the identity, seals, custody and transmission of contraband defeat a narcotics conviction; a positive chemical report alone is insufficient. The observations that section 17(2) of the Sindh Act, 2024 was non-retrospective, yet absence of video remained factually relevant and the later enactment showed the importance of objective recording, are obiter dicta.

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## 19. SINDH HIGH COURT

**Muhammad Tasleem Rajput v/s. P.O Sindh & Others**  
**Const. P No.D-419 of 2019**

**Present:** *Mr Justice Arbab Ali Hakro and Mr Justice Muhammad Osman Ali Hadi*

**Source :** <https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzE5ODgzY2Ztcy1kYzgz&citation=2026+SHC+SUK+1551%2C+2026+SHC+SUK+1552%2C+2026+SHC+SUK+1553>  
[2026 SHC SUK 1551](#)

**Facts:** The petitioner challenged the Board of Revenue's order dated 09.01.2019, whereby it exercised review jurisdiction and reversed the appellate order dated 27.05.2016 concerning cancellation of the petitioner's land entries Nos. 213-A and 215-A in Deh Abid Jagir. The petitioner contended that no review petition had been filed and that the Board had acted suo motu without lawful authority. He further argued that the review was filed after about two years, beyond the statutory period of 90 days. The Board's order ultimately restored the original cancellation of the land entries, prompting the petitioner to invoke the constitutional jurisdiction of the High Court.

**Issue:** Whether the Board of Revenue was legally competent under Section 8 of the Board of Revenue Act, 1957 to exercise review jurisdiction suo motu, and whether it could entertain a review petition filed after the prescribed 90-day limitation period without properly condoning the delay.

**Rule:** Section 8 of the Board of Revenue Act, 1957 permits review of an order on an application by an aggrieved person on specified grounds, including discovery of new evidence, error apparent on the face of the record, or other sufficient reason. Such an application must be filed within 90 days. Review jurisdiction is limited and cannot be used as a means of retrial or rehearing of the case.

**Application:** The Court found that no Review Petition was available on record, nor did the respondents produce one, while the impugned order purported to have been passed on a Review Petition. The Court further held that Section 8 contains no provision conferring suo motu review powers upon the Board. In addition, the review was filed approximately two years after the appellate order, despite the statutory limitation of 90 days. Although the Board referred to "public importance" to overlook the delay, it provided no legal basis or reasons for condonation. Its further reference to "clear cut forgery and fabrication" was also unsupported by any explanation showing how such allegations satisfied the requirements of review jurisdiction.

**Conclusion:** The High Court held that the impugned order was passed beyond the Board's legal mandate, was time-barred, and failed to satisfy the requirements of Section 8 of the Board of Revenue Act, 1957. Accordingly, the order dated 09.01.2019 was declared unlawful and without jurisdiction, set aside, and the constitutional petition was allowed.

**20. SINDH HIGH COURT**  
**Abdul Jabbar v/s. Fed of Pak & Others**  
**Const. P No.D-933 of 2020**

**Present:** *Mr Justice Arbab Ali Hakro and Mr Justice Muhammad Osman Ali Hadi*  
**Source :** <https://caselaw.shc.gov.pk/caselaw/download-file.php?doc=MzIwMTc5Y2Ztcy1kYzgz&citation=2026+SHC+SUK+1559>  
[Sindh High Court Citation \(2026 SHC SUK 1559\)](#)

- Facts:** The petitioner, Abdul Jabbar, joined the State Life Insurance Corporation in 1998 and was serving as Area Manager, Sukkur Zone, when disciplinary proceedings were initiated against him regarding alleged irregularities involving Corporation funds. After an enquiry, the Enquiry Officer found that the principal allegation of embezzlement was not established and that the petitioner was, at most, responsible for certain procedural irregularities and negligence, recommending a warning in view of his long service record. Despite this, the Competent Authority dismissed him on 18.03.2019 and ordered recovery of the alleged loss, which was subsequently upheld in departmental appeal on 19.11.2019. The petitioner therefore challenged both orders before the High Court, also complaining that his salary and allowances had been unlawfully withheld prior to the initiation of the disciplinary proceedings.
- Issue:** Whether the petitioner's dismissal from State Life Insurance Corporation was lawful when the Enquiry Officer had not established embezzlement, fraud, forgery or dishonesty against him, the Competent Authority departed from the enquiry findings without recording reasons, relied on misconduct provisions not included in the charge-sheet, and imposed a disproportionate penalty. The Court also considered whether the petitioner was entitled to recovery of salary withheld before the initiation of the enquiry.
- Rule:** Employees of autonomous statutory corporations whose service is governed by statutory regulations may invoke the constitutional jurisdiction of the High Court under Article 199, as they do not fall within the exclusive jurisdiction of Service Tribunals under Article 212. Under Regulation 31(2)(iii), the Competent Authority must consider the Enquiry Officer's report and, if it rejects the report or departs from its findings, must record reasons. A disciplinary penalty must also be proportionate to the misconduct established, and similarly placed employees should not be subjected to discriminatory or unexplained disparity in punishment.
- Application:** The Court found that the Enquiry Officer had specifically concluded that the petitioner was not directly involved in the alleged fraud and that the evidence was insufficient to establish the principal embezzlement charge. At most, the enquiry established that he had performed certain functions belonging to the cashier and failed to report irregularities, for which a warning was recommended. The Competent Authority nevertheless dismissed him for dishonesty without explaining why it rejected the favourable findings of its own Enquiry Officer. It also relied upon Regulation 30(2)(iv) and (v), concerning bribery and habitual absence, although neither allegation had been charged or established against the petitioner. The Court further found dismissal disproportionate to the minor misconduct actually established and noted the unexplained disparity between the petitioner and other employees involved in the same matter. The belated allegation of a separate Rs.50 million fraud, raised only in the respondents' comments, was disregarded because it had never formed part of the disciplinary proceedings. Finally, salary withheld from August 2017 to April 2018 was held unlawful because no enquiry or valid suspension order existed during that period.
- Conclusion:** The Court set aside the dismissal order dated 18.03.2019, the departmental appeal order dated 19.11.2019, and the recovery of Rs.2,157,375. Instead, the petitioner was awarded the minor penalty of **censure** under Regulation 30(1)(i), reinstated with continuity of service and seniority, and granted arrears and consequential benefits subject to lawful adjustments. The



withheld salary and perquisites were also ordered to be released, while the claim regarding the Rs.9,50,000 cash award was left open for departmental determination.

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**21. THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS**

**Zulfiqar Ali v. Assistant Manager (NADRA) and others**  
**Second Appeal No. S-31 of 2026**

**Present:** *Mr. Justice Muhammad Humayon Khan*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIwNDczY2Ztcy1kYzgZ>

2026 SHC MPK 1577

**Facts:** Zulfiqar Ali, nephew of deceased Esso, sought a declaration that respondent No.4 was not Esso's son but a former worker who had fraudulently obtained a CNIC to claim Esso's property. NADRA stated that the CNIC was issued in 2017 on the biometric verification of Esso's wife, Mst. Bhooryani, and renewed in 2023. Respondent No.4 maintained that he was Esso's son. The trial Court dismissed the suit and the first appellate Court affirmed. Zulfiqar filed a second appeal under section 100 CPC against these concurrent findings.

**Issue:** Whether a nephew had legal character under section 42 of the Specific Relief Act, 1877 to challenge another person's paternity after the putative parents' deaths, and whether any misreading or non-reading of evidence justified interference in second appeal?

**Rule:** Second appeal under sections 100-101 CPC is confined to a decision contrary to law, failure to determine a material legal issue, or a substantial procedural defect affecting the merits; concurrent facts are disturbed only for manifest misreading, non-reading, absence of evidence, or reliance on inadmissible or irrelevant evidence: *Zafar Iqbal v. Naseer Ahmed* (2022 SCMR 2006), *Mst. Farzana Zia v. Mst. Saadia Andaleeb* (2024 SCMR 916), *Ayub v. Nisar Ahmed* (2008 SCMR 703) and *Muhammad Khan v. Mst. Rasul Bibi* (PLD 2003 SC 676). Article 128 QSO creates a strong presumption of legitimacy; a third-party relative has no section 42 legal character to repudiate paternity not denied by the putative parents during their lives: *Mst. Laila Qayyum v. Fawad Qayum* (PLD 2019 SC 449), *Munir Hussain v. Riffat Shamim* (2023 SCMR 6) and *Muhammad Nazir v. Ali Muhammad* (2003 SCMR 1183) .

**Application:** The appellant admitted that the CNIC was issued in 2017, Mst. Bhooryani lived until 2020 without objecting, Esso had raised respondent No.4 from childhood, and a property dispute existed. NADRA's witness denied error, and its official record enjoyed a presumption of correctness. The alleged 2022 faisla was not proved through its author, notary, ameens or two marginal witnesses as required by Articles 17(2)(a) and 79 QSO, attracting an adverse presumption under Article 129(g). Assertions concerning another father and brothers were unpleaded, unsupported and inadmissible; the remaining witness lacked relevant knowledge and admitted the land dispute. Thus, neither standing nor any misreading or non-reading was established.

**Conclusion:** The second appeal and pending applications were dismissed in limine, without costs. The Court ruled that a collateral relative cannot, after the putative parents' deaths, obtain a negative declaration of paternity that the parents never asserted, especially where official NADRA material and the parties' conduct support legitimacy and no section 100 CPC error is shown. It was asserted by way of opinion that parentage is a fundamental aspect of human existence and should not be unsettled through grossly insufficient evidence generated by a property dispute; courts can judge such a claim only on legally admissible proof.

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## 22. THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

**Sht. Kavita v. SSP Umerkot and others**

**Criminal Misc. Application No. S-259 of 2026**

**Present:** *Mr. Justice Muhammad Humayon Khan*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIwNzY1Y2Ztcy1kYzgZ>

2026 SHC MPK 1600

**Facts:** Sht. Kavita lodged Crime No.13 of 2026 against her husband, Amrat Lal, alleging abuse, assault, torn clothes and threats on 18.02.2026, offences under sections 506(ii), 354, 337-A(i), 337-F(i) and 509 PPC. The Investigating Officer treated the accusation as unsubstantiated against the background of a matrimonial dispute and recommended cancellation. The Magistrate accepted the report under C/Cancelled Class on 17.07.2026. Invoking section 561-A, Cr.P.C., Kavita sought to set aside that administrative order and compel a challan under section 173.

**Issue:** Could the High Court use section 561-A, Cr.P.C. to overturn the Magistrate's concurrence with a cancellation report and direct the police to challan the nominated accused where no jurisdictional defect, mala fide manipulation or abuse of process was shown?

**Rule:** A Magistrate concurring with a report under section 173, Cr.P.C. acts administratively, and the order is not revisable: *Bahadur v. The State* (PLD 1985 SC 62), *Arif Ali Khan v. The State* (1993 SCMR 187), *Muhammad Sharif v. The State* (1997 SCMR 304) and *Hussain Ahmad v. Mst. Irshad Bibi* (1997 SCMR 1503). Section 561-A is exceptional and corrective; it does not authorize re-investigation or appellate substitution of the High Court's factual view absent demonstrable abuse. An Investigating Officer must examine all versions and report the facts discovered; nomination in an FIR creates no indefeasible right to have the accused tried: *Mst. Sughran Bibi v. The State* (PLD 2018 SC 595) and *Habib v. The State* (1983 SCMR 370) (paras. 4-6).

**Application:** The applicant's own son told investigators that no quarrel occurred and his father had gone to work. The parties' Mata Sata family arrangement and related Family Court litigation supplied a relevant matrimonial background. Although the alleged assault occurred on 18.02.2026, Kavita reported for medico-legal examination on 26.02.2026; both provisional and final certificates disclosed no visible injury or mark of violence attributable to the occurrence. No

mala fide interpolation, suppression of decisive evidence, want of jurisdiction or mechanical action was identified. Ordering a challan would improperly force the investigating agency to adopt a conclusion contrary to its investigation.

**Conclusion:** The application and pending applications were dismissed in limine, while Kavita remained free to pursue any lawful remedy, including a direct complaint. It was ruled that section 561-A does not permit the High Court to reassess a reasoned cancellation or compel prosecution merely because the accused was nominated; exceptional interference requires a patent jurisdictional defect, illegality, mala fide manipulation or abuse of process, none of which was shown. It was noted by Court that acceptance of cancellation is neither an acquittal nor a final extinction of the complainant's remedies, and the investigative opinion of innocence is not a judicial verdict after trial.

## 23. THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

**Sajjad alias Kari v. The State**

**Crl. Bail Applications Nos. S-333 and 334 of 2026**

**Present:** *Mr. Justice Muhammad Humayon Khan*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIxMDc3Y2Ztcy1kYzgZ>

2026 SHC MPK 1630

**Facts:** Sajjad alias Kari sought post-arrest bail in two connected cases. FIR No.29 of 2025 alleged that he and another person robbed Ghanwar Mal and Keval at gunpoint of a mobile phone and cash, attracting sections 397 and 34 PPC. FIR No.31 of 2025 alleged that, after a police chase, Sajjad was arrested with an unlicensed 9mm pistol, four live rounds and the motorcycle used in the robbery, attracting section 23(1)(a) of the Sindh Arms Act. He asserted false implication, foisted recoveries and delayed FIRs; the State relied on the recoveries and his criminal record .

**Issue:** Whether delay and an unsupported allegation of false implication justified post-arrest bail in non-bailable robbery and arms cases despite incriminating recoveries and a record indicating danger of repeated offences?

**Rule:** In non-bailable offences, bail is a concession rather than a right and may be declined where there is danger of repeated offences: *Tariq Bashir v. The State* (PLD 1995 SC 34). Delay in lodging an FIR, standing alone, does not justify bail unless supported by other material favourable to the accused: *Haji Gulu Khan v. Haji Gul Daraz Khan* (1995 SCMR 1765), *Mazhar Iqbal v. The State* (2010 SCMR 1171) and *Abdul Jabbar v. The State* (2012 P.Cr.L.J. 786).

**Application:** Police papers showed six FIRs against Sajjad, including three under section 397 PPC, one for house-breaking and theft, one narcotics case and the two present cases. The pattern prima facie indicated a risk of repeat offending and a threat to public safety. The unlicensed pistol, live

rounds and the robbery motorcycle were allegedly recovered from his personal possession. He produced no tentative material showing enmity so extensive that police had repeatedly implicated him since 2024. His reliance on FIR delay was likewise unsupported by any additional favourable circumstance and therefore did not justify bail.

**Conclusion:** Both bail applications were dismissed, with the trial Court directed to decide the cases within four months and submit progress reports every two months (paras. 10-11). Ratio decidendi: where recoveries connect an accused to non-bailable robbery and arms offences and his record prima facie shows a danger of repetition, unsupported claims of foisting and FIR delay do not warrant post-arrest bail. Material obiter dicta: none of independent precedential significance; the Court expressly confined its assessment of criminal propensity and evidentiary connection to the tentative bail stage.

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## 24. THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

**Province of Sindh and others v. Muhammad Imran and others**  
**Civil Revision No. S-150 of 2024**

**Present:** *Mr. Justice Muhammad Humayon Khan*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIwMjYxY2Ztcy1kYzgZ>

2026 SHC MPK 1564

**Facts:** Muhammad Imran and others challenged the Province's acquisition or purchase of land inherited by them while they were minors. The trial Court decreed their suit for declaration and injunction. During the Province's appeal, it applied under Order XLI Rule 27 read with section 151 CPC to produce 1988 official correspondence, the acquisition order and bank drafts relating to payment for the land. The Additional District Judge refused because the material was available at trial, its non-production was unexplained, and the belated request was an afterthought. The Province challenged that order under section 115 CPC.

**Issue:** Could official and bank records be admitted as additional evidence in appeal when they existed throughout the trial, remained within the applicants' control or knowledge, and were not shown to be necessary for deciding the appeal?

**Rule:** Under section 107(d) and Order XLI Rule 27 CPC, an appeal is ordinarily decided on the trial record. Additional evidence is exceptional and discretionary: it may be received where the trial Court wrongly refused admissible evidence, or where the appellate Court requires it to pronounce judgment or for another substantial cause. The power is not meant to fill lacunae, repair deficient proof or reopen a case. The decisive test is not whether the evidence improves a party's case, but whether it is necessary for satisfactory and complete disposal and bears directly on the principal issue. The party's conduct and reasons for earlier non-production must be considered. Evidence within its control but omitted at trial is ordinarily excluded, and public or official status does not dispense with a full explanation: *Mad Ajab v. Awal Badshah* (1984

SCMR 440); Mst. Fazal Jan v. Roshan Din (PLD 1992 SC 811); Ghulam Zohra v. Nazar Hussain (2007 SCMR 1117); and Shamshad Bibi v. Riasat Ali (PLD 2023 SC 643).

**Application:** The documents dated from 1988 and were in the possession of official departments that had been parties from the beginning; the bank drafts could also have been summoned at trial. No satisfactory reason was given for the omission. The acquisition and payments were already admitted, while the suit challenged them on other grounds, so the proposed material was not necessary for complete disposal. The relevant letters had even been annexed to the plaint, confirming the applicants' knowledge. Sher Muhammad (PLD 2021 Lahore 287) was distinguishable because its documents were filed with the pleadings but omitted during evidence and were necessary; Naseem & Company (2022 MLD 1426) concerned Order XIII Rule 2 at the trial stage. The appellate Court therefore lawfully refused additional evidence.

**Conclusion:** The High Court dismissed the revision and pending applications without costs. The ratio decidendi is that Order XLI Rule 27 cannot be used to repair an unexplained failure to produce available evidence at trial; even public documents require proof of necessity and a satisfactory explanation for non-production. The observations distinguishing Sher Muhammad and Naseem & Company, and that the respondents' absence did not relieve the applicants of proving their case, are ancillary obiter dicta.

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## 25. THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

**Majid Ali v. The State and another**  
**Crl. Bail Application No. S-358 of 2026**

**Present:** *Mr. Justice Muhammad Humayon Khan*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzE5ODQ5Y2Ztcy1kYzgZ>

2026 SHC MPK 1550

**Facts:** Majid Ali was accused of advancing an interest-bearing loan of Rs.100,000 to the complainant's son against a blank guarantee cheque, fabricating the borrower's signature, cheque amount and a tractor-sale agreement, harassing the family, and threatening the complainant with a pistol at Zam Zam Hotel. Crime No.153 of 2026 was registered under sections 467, 468 and 506/2 PPC and sections 3, 4 and 5 of the Sindh Prohibition of Interest on Private Loans Act, 2023. After the Additional Sessions Judge refused pre-arrest bail, the applicant sought confirmation of interim bail from the High Court.

**Issue:** Whether interim pre-arrest bail should be confirmed where the accusations of an interest-based loan, forgery and armed threats lacked tangible corroboration and called for further inquiry?

**Rule:** For the prohibitory clause of section 497(1), Cr.P.C., 'reasonable grounds' require tangible evidence which, if unrebutted, may support an inference of guilt; otherwise the matter may fall within further inquiry under section 497(2); Khalid Saigol v. The State (PLD 1962 SC

495) and Khalid Javed Gillani v. The State (PLD 1978 SC 256). Delay that erodes the spontaneity of an FIR is tentatively resolved for the accused: Muzammil Hussain v. The State (2026 SCMR 917). Where post-arrest bail is otherwise warranted, pre-arrest bail should not be refused merely to first place the accused in custody: Muhammad Akhtar v. The State (2025 SCMR 1631).

**Application:** The loan and interest allegations were largely oral, while the disputed signatures and agreement could not be resolved at bail stage and lacked supporting material. No incriminating article or alleged pistol was recovered; despite the claimed occurrence at a public hotel, no independent witness, hotel employee or CCTV footage was produced. Section 5 of the 2023 Act carried five years and lay outside the prohibitory clause, while no abetment was alleged to attract section 4. The FIR was lodged nearly two months after the occurrence, the parties had cross-litigation, the final challan had been submitted and investigation was complete. Collectively, the record did not supply the tangible material necessary to justify pre-trial custody and made the case one of further inquiry.

**Conclusion:** The application was allowed and interim pre-arrest bail was confirmed on the existing surety, subject to cancellation for misuse; the trial Court was directed to decide the case within three months. The Court ruled that where uncorroborated allegations, absent recovery, FIR delay, cross-litigation and completed investigation leave no tangible prima facie evidence of guilt, section 497(2) requires further inquiry and pre-arrest bail may be confirmed. Although riba must be deterred, deterrence must follow concrete investigation, due process and proven guilt, not suspicion-based pre-trial punishment.

**26. THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS**

**Mahesh Kumar v. SSP Umerkot and others**  
**Criminal Misc. Application No. S-201 of 2025**

**Present:** *Mr. Justice Muhammad Humayon Khan*

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzIwNzQzY2Ztcy1kYzgZ>

2026 SHC MPK 1591

**Facts:** Mahesh Kumar alleged that the private respondents threatened him on 03.11.2024 and assaulted him on 04.11.2024. After registration of an FIR and relief under sections 22-A and 22-B, Cr.P.C. were declined, the High Court observed that the allegations disclosed a non-cognizable offence. N.C. Report No. 02 of 2025 was investigated with permission under section 155, Cr.P.C., and the Magistrate accepted it under C/Cancelled Class. The applicant invoked section 561-A, relying on nomination, medical evidence, alleged partiality and his request to change the Investigating Officer.

**Issue:** Whether section 561-A, Cr.P.C. could be used to set aside the Magistrate's administrative concurrence with a cancellation report where no patent jurisdictional defect, manifest abuse of process or failure of justice was established?

**Rule:** Investigation is primarily a police function, while a Magistrate may independently agree or disagree with a final report under sections 173 read with 190, Cr.P.C. Concurrence with cancellation is administrative, not an acquittal, but must be fair and reasoned. Section 561-A is curative against abuse of judicial process; it is not an appeal over administrative investigation or cancellation. Exceptional interference requires patent want of jurisdiction, manifest abuse or failure of justice. Nomination does not prove involvement, medical evidence proves injury rather than the offender's identity, and a request to change the Investigating Officer does not invalidate the investigation: *Habib v. The State* (1983 SCMR 370); *Bahadur v. The State* (PLD 1985 SC 62); *Muhammad Hanif v. The State* (2019 SCMR 2029); *Naveed Asghar v. The State* (PLD 2021 SC 600); *FIA v. Syed Hamid Ali Shah* (PLD 2023 SC 265); *Saad Zia v. The State* (2023 SCMR 1898); and *Aurangzaib Alamgir v. Muhammad Sajid* (PLD 2025 SC 53).

**Application:** The applicant identified no connecting material overlooked or suppressed by the police or Magistrate. His medical report supported injury but not its author and recorded 02.11.2024 as the occurrence date instead of the alleged 04.11.2024 assault; no medical document supported his wife's injuries. His transfer request was unsupported by any transfer order, restraining direction, personal interest or suppression of evidence. Nothing showed want of jurisdiction, mechanical acceptance of the police view, or disregard of decisive material. The challenge sought only a different evaluation of the investigation and failed the exceptional threshold under section 561-A.

**Conclusion:** The High Court dismissed the application, maintained the C/Cancelled Class order, and preserved a direct complaint under section 200, Cr.P.C. or another lawful remedy. The ratio decidendi is that section 561-A cannot serve as an appeal against administrative cancellation; without patent illegality, want of jurisdiction or manifest abuse, the High Court will not reweigh investigative material. The assumed possibility of exceptional scrutiny and the non-final observations on the medical-date discrepancy and corroboration are obiter dicta.

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## SELECTED ARTICLES

### **THREE MONTHS, NOT THREE MONTHS OF SILENCE. Judicial Control of Delay in Filing Written Statements by Government Defendants in Civil Suits in Pakistan.**

[https://www.academia.edu/172454724/THREE\\_MONTHS\\_NOT\\_THREE\\_MONTHS\\_OF\\_SILENCE\\_Judicial\\_Control\\_of\\_Delay\\_in\\_Filing\\_Written\\_Statements\\_by\\_Government\\_Defendants\\_in\\_Civil\\_Suits\\_in\\_Pakistan](https://www.academia.edu/172454724/THREE_MONTHS_NOT_THREE_MONTHS_OF_SILENCE_Judicial_Control_of_Delay_in_Filing_Written_Statements_by_Government_Defendants_in_Civil_Suits_in_Pakistan)

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#### **Abstract**

Delay in civil litigation remains one of the most persistent challenges confronting the administration of justice in Pakistan. In many cases, the delay does not arise from the complexity of the dispute or the volume of evidence, but from repeated postponement of ordinary procedural steps. One such recurring cause is the failure of defendants to file written statements within the time prescribed or allowed by the Court. The problem becomes particularly significant where the defendant is a Government department, because requests for time are frequently justified on the ground that departmental instructions, records or approvals



are awaited. In practice, a request for a few weeks may result in repeated adjournments extending over several months. This raises an important question of civil procedure: where the law provides a period of three months for Government to submit its written statement, particularly under the proviso to Section 80(2) of the Code of Civil Procedure, 1908, is the Court required merely to wait until the expiry of that period, or does it retain the authority and responsibility to regulate the proceedings during that time? The answer requires a careful distinction between the statutory protection available to Government and the general power of the Court to control its proceedings. The law requires that a statutory minimum period be respected where its conditions are attracted, but it does not confer upon Government an unrestricted right to obtain repeated adjournments. A statutory period is intended to secure a reasonable opportunity to defend; it is not intended to paralyse the Court or deprive the opposite party of timely justice.

### **Introduction**

The expression “three months” or “ninety days” is frequently heard in civil Courts when the defendant is a Government department. In some cases, it is treated almost as though it were a period during which the Court cannot meaningfully proceed with the matter. A typical sequence is familiar to trial Courts: the Government is served, the Government Pleader appears, and time is sought for obtaining instructions. The Court grants time. On the next date, the Court is informed that the department has not yet supplied the relevant record. Another date is granted. Thereafter, it may be stated that approval of the competent authority is awaited, or that instructions have not been finalized. With every adjournment the case remains formally pending, while substantive progress comes to a halt. The difficulty is not that Government should be denied reasonable time. Government litigation has its own institutional requirements and the law recognizes them. The real difficulty arises when a procedural safeguard is transformed into a justification for indefinite delay. The question, therefore, is not whether Government is entitled to reasonable time, but whether the Court is legally required to remain a passive spectator during that period.

### **Statutory Framework**

The starting point is Section 80 of the Code of Civil Procedure, 1908. Section 80(1) ordinarily requires a statutory notice before instituting a suit against Government or a public officer in respect of an act purported to be done in official capacity. Section 80(2), however, permits institution of a suit without such notice in cases where urgent or immediate relief is sought, subject to the conditions contained in the provision. The proviso to Section 80(2) contains an important safeguard for Government and provides that, in a suit instituted without such notice, “the Court shall allow not less than three months to the Government to submit its written statement.” The language is mandatory. Therefore, where the conditions of Section 80(2) are attracted, the Court cannot prematurely curtail the statutory minimum period. This statutory protection must be respected. At the same time, the provision should not be understood as creating a general rule that every Government defendant, in every civil suit, has an automatic ninety-day right before the Court can take any procedural step.

This distinction is important because the historical form of Order VIII Rule 1 CPC also

contained a ninety-day formulation concerning the filing of written statements. The earlier provision stated that the period allowed for filing the written statement should not ordinarily exceed ninety days. The Honorable Supreme Court of Pakistan considered this provision in several cases and examined its relationship with Order VIII Rule 10. The present legal position should therefore be stated with precision: the three-month protection under Section 80(2) arises in a specific statutory context, whereas the general law concerning written statements is governed by Order VIII Rule 1 and the time fixed or permitted by the Court. Conflating these two provisions can lead to an erroneous proposition that Government is universally entitled to ninety days in every civil suit.

### **The Decision in Sardar Sakhawat-ud-Din**

The judgment of the Honorable Supreme Court of Pakistan in ***Sakhawat-ud-Din v. Muhammad Iqbal***, reported as **1987 SCMR 1365**, is particularly relevant to the legal consequences of failure to file a written statement. The case arose in Civil Appeals Nos.177 of 1983 and 164 of 1986. The Honorable Supreme Court examined the scheme of Order VIII Rules 1, 9 and 10 and considered the circumstances in which the Court could proceed against a defendant who had failed to file a written statement. The Honorable Court drew attention to the language of Rule 10 and explained that the provision becomes applicable where a written statement required by the Court has not been filed. The Honorable Court further emphasized that the consequence contemplated by Rule 10 is discretionary and cannot be imposed mechanically. The significance of the judgment lies in the fact that it prevents both extremes. A defendant cannot be deprived of the right of defence through an arbitrary or mechanical application of Rule 10, but equally, the existence of procedural discretion does not mean that a defendant can indefinitely postpone compliance. The judgment therefore provides a useful foundation for a balanced approach by the trial Court.

### **The Principle in Kamran Co.**

The Honorable Supreme Court Pakistan's decision in ***Kamran Co. and others v. Messrs Modern Motors and another***, reported as **PLD 1990 SC 713**, is another important authority. The matter was dealt with in Civil Appeal No.168 of 1979. The Supreme Court considered the nature of the power available under Order VIII Rule 10 and relied upon the earlier judgment in ***Shamroz Khan and another v. Muhammad Amin and others***, reported as **PLD 1978 SC 89**. The Honorable Court emphasized the significance of the word "may" and recognized that where the legislature confers a power in discretionary language, the Court must exercise that power judicially. The principle is important for the present discussion because it demonstrates that procedural law does not operate through automatic formulas. The Court must examine the circumstances and determine what order is appropriate in the interests of justice. This principle applies equally to an application for further time. Just as the Court should not mechanically close the defence merely because a procedural period has expired, it should not mechanically grant further time merely because the defendant happens to be a Government department.

### **The Section 80(2) and PLD 1999 Karachi 329.**

The position becomes particularly clear from the judgment of the Honorable High Court of

Sindh in *Assistant Commissioner, Latifabad, Hyderabad and 2 others v. Messrs Muhammadi Enterprises through Managing Partner*, reported as **PLD 1999 Karachi 329**. The case concerned the mandatory requirement contained in the proviso to Section 80(2) CPC. Government had not been afforded the minimum period required by law. The record showed that summons had been served on 24 February 1994 and the suit was decreed on 11 April 1994, meaning that the decree was passed within approximately forty-seven days. The Honorable High Court held that this approach was contrary to the statutory protection available to Government and emphasized that the Court was required to allow not less than three months for submission of the written statement. The case is important for present purposes because it establishes the first half of the legal equation: where the legislature has expressly granted Government a minimum period, the trial Court must respect that period. The judgment, however, should not be stretched to mean that Government thereafter acquires an indefinite entitlement to adjournments. The statutory protection protects a minimum opportunity; it does not authorize endless postponement.

### **The Difference Between a Statutory Period and an Adjournment**

A fundamental distinction must be maintained between a period prescribed by law and an adjournment granted by the Court. A statutory period defines the minimum time within which a party is entitled to perform a particular procedural act. An adjournment, on the other hand, is a judicial postponement of the proceedings. These concepts should not be treated as synonymous. If the law requires that Government be allowed three months to submit its written statement, the Court may fix a definite date falling after the expiry of the protected period rather than repeatedly calling the matter every few weeks merely to record that “time is sought.” There is no inherent legal requirement that the Court must repeatedly adjourn the case throughout the statutory period. What the Court cannot do is take an action which effectively defeats the statutory right before the minimum period has expired. Within that limitation, the Court retains control over the proceedings.

### **The Court Is Not Required to Remain a Passive Spectator**

The proposition that the Court must “wait and watch” until ninety days or three months have elapsed is inconsistent with the judicial function. The Court is not merely an administrative office recording dates. Once a case is instituted and comes before the Court, the Court assumes responsibility for regulating its progress in accordance with law. It may ensure proper service, require appearance through the authorized Government Pleader, require clarification regarding representation, direct that the written statement be filed on a specified date, and discourage repetitive requests for time. Where the statutory period has expired and the defendant has still failed to comply, the Court may consider the consequences available under Order VIII Rule 10, provided the conditions of that rule are satisfied and the discretion is exercised judicially. The distinction is therefore between giving Government sufficient time and giving Government unrestricted control over the pace of litigation. The first is required by law where applicable. The second is not.

### **Government Litigation and the Explanation of “Instructions Awaited”**

One of the most common explanations offered in pending suits against Government is that “instructions have not been received.” There are, of course, genuine situations where instructions cannot immediately be obtained. Government departments may have their offices at different locations, relevant records may be held by another authority, or approval of a competent officer may be necessary. Such circumstances justify reasonable accommodation. However, the expression “instructions awaited” should not become a routine formula for obtaining repeated adjournments.

A Court should be able to ascertain what steps have actually been taken since the previous hearing. There is a substantial difference between a Government Pleader/District Attorney Office stating merely that “instructions are awaited” and explaining that the relevant record was requisitioned on a particular date, that a specific officer has been nominated, that certain documents have been received, and that the remaining instructions are expected by a specified date. The latter demonstrates diligence; the former may merely demonstrate inactivity. Judicial case management should encourage the former and discourage the latter.

### **The Honorable Apex Court and Expeditious Disposal**

The importance of avoiding unnecessary delay is also reflected in the Honorable Supreme Court's jurisprudence concerning expeditious disposal of litigation. In *Messrs MFMY Industries Limited and others v. Federation of Pakistan through Ministry of Commerce and others*, reported as **2015 SCMR 1550**, the Honorable Supreme Court emphasized the importance of timely disposal of cases and the responsibility of Courts to ensure that proceedings do not remain pending unnecessarily. Although the case did not directly concern the precise question of a Government defendant seeking time for a written statement, its underlying principle is relevant: the judicial process cannot be allowed to remain indefinitely suspended merely because a party has failed to utilize an opportunity already afforded. The broader lesson is that the judicial process must remain directed towards adjudication rather than repeated procedural postponement.

### **Natural Justice Does Not Mean Unlimited Opportunity**

It is sometimes argued that refusal to grant further time to Government would amount to denial of natural justice. That proposition must be approached carefully. Natural justice requires a fair and reasonable opportunity to present a defence. It does not ordinarily require an unlimited number of opportunities. If Government has been duly served, has entered appearance, has been afforded the statutory minimum period where applicable, and has subsequently been granted reasonable opportunities, the Court is not necessarily required to continue granting adjournments indefinitely. The question is always whether the defendant has received a real and reasonable opportunity and whether there is sufficient cause for further delay. If the answer is no, judicial enforcement of the procedural timetable does not necessarily offend natural justice.

### **The Plaintiff's Right to Timely Justice**

The rights of the defendant should not be examined in isolation. Civil litigation involves two

sides and the plaintiff also has a legitimate interest in timely adjudication. A person who approaches the Court seeking declaration, possession, partition, specific performance, recovery of money or other civil relief may already have suffered substantial prejudice before the litigation begins. If the defendant is permitted to postpone filing a written statement for months, the plaintiff continues to live under the uncertainty created by the pending litigation.

The principle of fair trial therefore has two dimensions. The defendant must receive a meaningful opportunity to defend, while the plaintiff must receive a meaningful opportunity to obtain adjudication within a reasonable time. Excessive indulgence to one party can itself become unfair to the other. A fair trial cannot mean an endless trial. The Article 10-A of the Constitution of Pakistan guarantees the fundamental right to a fair trial and due process.

### **A Reasoned Approach for Trial Courts**

A balanced judicial approach begins by identifying the precise statutory provision upon which the Government relies. If the suit was instituted without the notice contemplated by Section 80(1) of CPC 1908, the Court must determine whether Section 80(2) CPC applies and, if so, must respect the mandatory three-month period contained in its proviso. If the case does not fall within that provision, the Court should not mechanically assume that Government has a universal ninety-day entitlement. The Court should then examine the requirements of Order VIII Rule 1 of Civil Procedure Code 1908.

Once the applicable period has been identified, the Court should preferably fix a definite date for filing the written statement rather than grant a succession of indefinite adjournments. The order should make it clear that the defendant is required to comply by the specified date. If further time is sought, the Court should require a satisfactory explanation and consider the entire procedural history of the case. The number of opportunities already granted, the steps taken by the Government department, the explanation offered, and the prejudice likely to be caused to the plaintiff should all be considered.

Where the written statement has been specifically required by the Court and the defendant fails to file it despite sufficient opportunity, Order VIII Rule 10 CPC may be invoked. However, in view of ***Sardar Sakhawat-ud-Din and 3 others v. Muhammad Iqbal and 4 others*, reported as 1987 SCMR 1365**, the Court must exercise the power judicially rather than mechanically. The Court may pronounce judgment or make another appropriate order, but its decision should reflect application of mind to the circumstances of the particular case.

### **A Practical Model of Case Management**

The most effective way to deal with this problem is not necessarily to close the defence at the first instance of default. A more balanced approach is to record the procedural history carefully. The order sheet should show the date of service, the date of appearance, the statutory period applicable to the Government, the opportunities already granted, and the reason advanced for further time. Where appropriate, the Government Pleader may be directed to identify the concerned department or officer responsible for providing instructions. The Court may then fix a definite date and make it clear that any further request will have to be supported

by sufficient cause.

Such orders are preferable to routine entries such as “time granted for written statement” because they create a transparent procedural record. If the matter subsequently reaches an appellate Court, the record will demonstrate that the trial Court neither acted precipitately nor allowed the proceedings to drift without control.

### **The Principle of Reasonable Accommodation**

The proper judicial attitude is therefore neither hostility towards Government defendants nor excessive indulgence. Government is entitled to reasonable procedural accommodation because of the institutional nature of Government litigation. At the same time, Government should not be treated as a privileged litigant immune from ordinary procedural discipline. The State possesses an administrative structure, legal departments and Government Pleaders, and it is reasonable to expect those institutions to coordinate their litigation.

The Court should therefore distinguish between genuine administrative difficulty and administrative indifference. Genuine difficulty may justify additional time. Repeated unexplained failure to obtain instructions should not.

### **Proposed Legal Principle**

The jurisprudence may therefore be synthesized into the following principle: where the law expressly grants Government a minimum period for filing a written statement, the Court cannot curtail that period. However, the grant of such period does not create a right to repeated adjournments and does not require the Court to remain procedurally inactive. The Court may regulate the proceedings, fix a definite date for compliance, require diligence from the Government department and its Law Officer/ Attorney, and, after expiry of the protected period and failure without sufficient cause, consider the consequences available under the Code of Civil Procedure 1908. The exercise of such power must always be guided by the requirement of fairness to both parties.

Proposed Measures to Curtail Delay in Filing Written Statements by Government Defendants

#### **1. Distinguish statutory protection from routine adjournment**

The first reform should be to eliminate the misconception that a Government defendant has an automatic right to repeated adjournments merely because a statutory period is available. The Court should first identify the precise source of the claimed period, whether Section 80(2) of CPC, Order VIII Rule 1 CPC, Order XXVII CPC. Once the applicable period is identified, the Court should record its expiry date in the order sheet. The period should be treated as a **period of opportunity and not as a series of mandatory adjournments**.

#### **2. Fix the final date rather than granting successive short dates**

Where Government is entitled to a statutory period, the Court should ordinarily fix a definite date for filing the written statement rather than repeatedly calling the case merely to ascertain

whether instructions have been received. For example, instead of granting three or four successive adjournments, the Court may state that the Government defendant shall file its written statement on or before a specified date falling within the permissible statutory period. This would save judicial time while fully preserving the Government's statutory right.

### 3. Require a specific departmental explanation for further time

After expiry of the statutory period, or where additional time beyond the ordinary period is sought, the application should not merely state that “instructions are awaited.” The Government Pleader should identify the **department concerned, the officer from whom instructions are awaited, the date on which the record was requisitioned, the steps already taken, and the expected date of receipt of instructions.** This would enable the Court to distinguish genuine administrative difficulty from routine delay.

### 4. Nominate a responsible Government officer

At the first effective hearing, the Court may require the Government department to identify an officer responsible for coordinating the litigation and providing instructions to the Government Pleader. The purpose would not be to interfere with executive administration but to ensure that a pending judicial proceeding has an identifiable person responsible for supplying the necessary record and instructions.

### 5. Introduce a “written statement compliance date”

The order sheet should contain a separate and clearly identifiable **“Written Statement Compliance Date.”** Once that date is fixed, the Court and the parties would know precisely when the pleading is expected. This would avoid ambiguity created by repeated entries such as “time for written statement.”

### 6. Discourage “routine adjournments”

A major source of delay is the practice of granting time orally or routinely recording “adjournment granted.” Every adjournment for written statement should preferably contain a short reason. If the same reason is repeated, the Court should record that fact. Such transparency would itself discourage unnecessary requests.

### 7. Impose realistic costs for avoidable delay

Where further time is sought without sufficient cause after reasonable opportunity has already been granted, the Court should consider imposing **realistic costs**, where authorized by law. Nominal costs often have little deterrent effect. Costs should be proportionate to the inconvenience caused to the opposite party and the judicial resources consumed. The purpose should not be punitive but compensatory and deterrent.

#### 8. Invoke Order VIII Rule 10 where its conditions are satisfied

Order VIII Rule 10 CPC should not be treated as a dead letter. Where the Court has specifically required the defendant to file a written statement, sufficient opportunity has been granted, and the defendant nevertheless defaults without sufficient cause, the Court should consider the powers available under Rule 10 of CPC. At the same time, reported case law of ***Sardar Sakhawat-ud-Din v. Muhammad Iqbal*, 1987 SCMR 1365**, requires the Court to exercise that power judicially rather than mechanically. Thus, the appropriate policy is neither **automatic closure** nor **automatic indulgence**.

#### 9. Record the entire procedural history before granting further time

Before allowing an additional adjournment, the Court should briefly record: “The defendant has already been granted \_\_\_ opportunities; the statutory period expired on \_\_\_; the reason now advanced is \_\_\_; and the Court is satisfied/not satisfied that sufficient cause exists.” Such an approach would make the exercise of discretion transparent and would also provide an adequate record for any subsequent appellate scrutiny.

#### 10. Introduce a “last opportunity” only when genuinely justified

The expression “**last opportunity**” should not itself become another routine formula followed by three more opportunities. If the Court grants a final opportunity, the order should explain why it is being granted and what consequence will follow from non-compliance, subject of course to the law declared by the Honorable superior Courts.

For example: “As a final opportunity, the defendant is directed to file written statement on or before \_\_\_\_\_. In case of failure, the Court shall consider the consequences available under Order VIII Rule 10 CPC in accordance with law.” This is more effective than repeatedly recording “last and final opportunity.”

#### 11. Establish Government Litigation Cells

At the institutional level, every major Government department should maintain an effective **Government Litigation Cell** responsible for receiving summons, collecting the relevant record and transmitting complete instructions to the concerned Government Pleader/ Attorney, within a prescribed internal period. The problem is often not lack of legal entitlement but poor coordination between the departments.

#### 12. Digital monitoring of Government cases

Government departments should maintain a digital litigation dashboard containing, at minimum:

- case number;
- Court;
- date of institution;



- date of service;
- date of appearance;
- statutory date for written statement;
- name of Government Pleader;
- name of responsible departmental officer;
- status of instructions;
- status of written statement; and
- next date of hearing.

An automated alert could be generated before expiry of the period for filing the written statement. This would address the problem at its administrative source.

#### 13. Government Pleader should not seek time without instructions from the department

Where the Government Pleader/Attorney repeatedly seeks adjournments without demonstrating that the concerned department has taken steps to prepare the defence, the Court may require a written explanation from the concerned department. The Government Pleader should not become merely a conduit through which departmental inaction is converted into judicial adjournments.

#### 14. Require personal responsibility for unexplained administrative delay

Where a Government department repeatedly fails to provide instructions despite directions of the Court, the Court may, where legally permissible, direct that the concerned administrative officer appear personally or submit a written explanation. The purpose should be accountability rather than punishment. This would send an important institutional message.

#### 15. Create a “no routine adjournment” policy

A practice direction may be issued that **no routine adjournment shall ordinarily be granted merely on the ground that instructions are awaited**, particularly after the Government has already been afforded the statutory period. Any further request should be supported by specific facts demonstrating genuine difficulty.

#### 16. Protect the plaintiff from prejudice

Before granting repeated time to Government, the Court should consider the prejudice caused to the plaintiff. The question should not be confined to: “Does Government need more time?” It should also be: “What prejudice will the plaintiff suffer if another date is granted?” This would bring proportionality into the exercise of procedural discretion.

#### 17. Adopt the principle: “Opportunity once granted must be utilized”

The underlying principle should be that a party is entitled to a reasonable opportunity, but once the opportunity has been granted, the party is expected to utilize it diligently. Failure to utilize an opportunity should not automatically generate another opportunity. This principle is

consistent with the broader approach towards expeditious disposal reflected in reported case “**Messrs MFMY Industries Ltd. and others v. Federation of Pakistan through Ministry of Commerce & others**, 2015 SCMR 1550”.

## Conclusion

The controversy surrounding the “ninety days” or “three months” period is ultimately not a controversy about time alone. It is a question about the proper relationship between procedural rights and judicial responsibility. The law quite properly gives Government additional protection in circumstances where the legislature considers it necessary. That protection cannot be ignored by a trial Court. The decision in **PLD 1999 Karachi 329 (Assistant Commissioner, Latifabad, Hyderabad and 2 others v. Messrs)** is a clear reminder that where the proviso to Section 80(2) applies, the statutory minimum of three months must be respected.

But respecting the statutory period does not mean that the Court must become a silent spectator. The Court remains responsible for managing the proceedings. It can fix a definite date for filing the written statement, monitor compliance, discourage repetitive adjournments and, where the conditions are satisfied, invoke the consequences available under Order VIII Rule 10.

The most appropriate judicial approach can therefore be expressed in simple terms: **the Government should be given the time which the law guarantees, but it should not be given the power to determine how long the litigation will remain pending.** A statutory period protects a procedural opportunity; it does not suspend the Court's responsibility to administer justice.

Three months should mean three months but not three months of silence, and certainly not three years of adjournments. Where the law grants Government a minimum period for filing its written statement, the Court is bound to respect that statutory protection; however, such period does not confer upon Government an entitlement to repeated adjournments or require the Court to remain inactive. The Court retains the duty to regulate the proceedings, ensure diligence, prevent unnecessary delay and, upon expiry of the protected period and failure without sufficient cause, proceed in accordance with the powers conferred by the Code of Civil Procedure 1908.”

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## Principal Authorities.

**1. Shamroz Khan and another v. Muhammad Amin and others — PLD 1978 SC 89**, Supreme Court of Pakistan, reported in *Pakistan Legal Decisions*, 1978, Supreme Court, page 89. The case is an important authority on the judicial nature of discretion where the CPC uses the word “may”.

**2. *Sakhawat-ud-Din v. Muhammad Iqbal* — 1987 SCMR 1365**, Supreme Court of Pakistan, Civil Appeal Nos.177 of 1983 and 164 of 1986. The case concerns Order VIII Rules 1, 9 and 10 CPC and is particularly relevant to the requirement that the written statement must have been specifically required by the Court before the consequences of Rule 10 CPC are invoked.

**3. *Kamran Co. and others v. Messrs Modern Motors and another* — PLD 1990 SC 713**, Supreme Court of Pakistan, Civil Appeal No.168 of 1979, judgment dated 16 April 1990, reported in *Pakistan Legal Decisions*, 1990, Supreme Court, page 713. The judgment addresses the discretionary character of the power under Order VIII Rule 10 CPC and the meaning of “may”.

**4. *Assistant Commissioner, Latifabad, Hyderabad and 2 others v. Messrs Muhammadi Enterprises through Managing Partner* — PLD 1999 Karachi 329**, High Court of Sindh, reported in *Pakistan Legal Decisions*, 1999, Karachi, page 329. The judgment is directly relevant to the proviso to Section 80(2) CPC and the mandatory requirement to allow not less than three months to Government for submission of its written statement where the suit is instituted without the notice contemplated by Section 80(1) CPC.

**5. *Messrs MFMY Industries Limited and others v. Federation of Pakistan through Ministry of Commerce and others* — 2015 SCMR 1550**, Supreme Court of Pakistan, reported in *Supreme Court Monthly Review*, 2015, page 1550. The case is relevant to the broader principle of expeditious disposal and the judicial responsibility to prevent unnecessary delay.

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