

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Before:

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Riazat Ali Sahar

C.P. No.D-275 of 2018

[Imtiaz Shaikh and others v. Province of Sindh & others]

C.P. No.D-3200 of 2018

[Muhammad Owais Khan v. Province of Sindh & others]

C.P. No.D-2418 of 2019

[Khalid Hussain Qambrani and others v. Province of Sindh & others]

C.P. No.D-235 of 2024

[HDA Employees Co-operative Society Ltd. v. Province of Sindh & others]

C.P. No.D-600 of 2024

[HDA Employees Co-operative Society Ltd. v. Province of Sindh & others]

C.P. No.D-1676 of 2025

[HDA Employees Co-operative Society Ltd. v. Province of Sindh & others]

Petitioners:

Represented through M/s. Muhammad Arshad S.Pathan and Ayaz Hussain Tunio (C.P. No.D-275 of 2018), Ishrat Ali Lohar (C.P. No.D-3200 of 2018, 2418 of 2019, 600 of 2024 and 1676 of 2025), Muhammad Noman (C.P. No.D-2418 of 2019) and Mohammad Vawda (C.P. Nos.D-235 & 600 of 2024 and 1676 of 2025), advocates.

Respondents:

Province of Sindh and others through M/s. Muhammad Ismail Bhutto, Additional Advocate General Sindh, Rafique Ahmed Dahri, Assistant Advocate General Sindh, Maqbool Ahmed Nizamani and Ishrat Ali Lohar, Irfan Ahmed Qureshi and Muhammad Mateen (C.P. No.D-275 of 2018 and C.P. No.D-2418 of 2019 and C.P. No.D-1676 of 2025).

Date of hearing: 20.11.2025

Date of Judgment: 20.11.2025

JUDGMENT

RIAZAT ALI SAHAR, J: - All the captioned petitions are interconnected almost on the same subject matter; therefore, the same are being disposed of through this common judgment.

2. Briefly stated, the facts of the petitions are that the petitioners in C.P. No.D-275 of 2018, C.P. No.D-2418 of 2019, C.P. No.D-235 of 2024, C.P. No.D-600 of 2024, C.P. No.D-3200 of 2018 and C.P. No.D-1676 of 2025 commonly seek that the impugned notifications, orders and actions taken by the respondents be declared illegal, unconstitutional, without jurisdiction, mala fide and of no legal effect and be set aside; that fair, transparent and law-compliant elections be held or recognized under the Cooperative Societies Act, Rules and relevant bye-laws. They have also prayed that elected bodies be allowed to take over and manage their respective societies without interference and that respondents be restrained from superseding managements, altering maps, making allotments, operating accounts, interfering in personal or official files, or taking any coercive, adverse, discriminatory or unlawful actions against residents, allottees or society officials. The petitioners further seek restoration of amenity plots and public facilities (C.P. No.D-275/2018), protection of records including sealing of offices where necessary (C.P. No.D-275/2018), suspension of enquiry letters and impugned notifications (C.P. No.D-235/2024, C.P. No.D-600/2024, C.P. No.D-1676/2025, C.P. No.D-3200/2018), recognition of past elections held under the bye-laws (C.P. No.D-3200/2018) and any other just, equitable or appropriate relief, along with costs of the petitions where claimed.

3. Notices were issued to the respondents and some of the respondents contested the matters and filed their objections/comments.

4. Respondents No.1 to 3 in C.P. No.D-3200/2018 have submitted that pursuant to an inquiry initiated by the competent authority, it was conclusively established that no physical elections of the Society had ever taken place and that purported election records were artificially created without any lawful or factual foundation. They therefore request that the said elections be graciously declared null and void. They further prayed that this Court may be pleased to order fresh, fair, transparent and verifiable elections under an independent representative appointed by this Court, ensuring that all bona fide residents and long-standing allottees, who, despite eligibility under Section 17-B of the Sindh Cooperative Societies Act, 1925, were never enrolled as members, are allowed equal voting rights. They also requested that responsibility be fixed upon all individuals involved in arranging, engineering or facilitating such fabricated election processes.

5. Respondent No.1 in C.P. Nos. D-235/2024 and D-600/2024 contended that the petitions suffer from multiple legal defects, including absence of cause of action, concealment of material facts and the petitioner's approaching this Court with unclean hands. According to the Respondent, the petitions constitute an abuse of constitutional jurisdiction and are otherwise barred by limitation. He contended that the petitioners have improperly invoked this Court's jurisdiction, that no *prima facie* case exists and that the petitions are marred by misjoinder as well as non-joinder of necessary parties. The Respondent contended that the petitioners' documents are inaccurate, that no declaratory or injunctive relief is warranted, and that the sitting management of the HDA Cooperative Housing Society has been involved in grave irregularities, including non-audit of accounts, failure to maintain statutory books, violations of FATF-compliance directives, unauthorized bifurcation of plots, illegal constructions and violations of approved layout plans. According to the Respondent, the Secretary Cooperative Department / Chairman SCHA was fully empowered under the relevant statutes to supersede the management and issue the impugned notification, which was done strictly in accordance with law; hence, prayed for dismissal.

6. Respondents No.1 to 4 in C.P. No.D-1676/2025 filed detailed objections contended that the petition is not maintainable on facts or law and deserves dismissal in limine. They relied upon the impugned Notification dated 28.08.2025, asserting that it was issued under Sections 6 (1), 6 (2) and 7 of the Sindh Cooperative Housing Authority Ordinance, 1982 following a duly constituted departmental inquiry exposing persistent violations committed by the petitioner Society. The show-cause notice dated 01.09.2025 purportedly enumerated a series of breaches including absence of valid elections, non-audit of accounts, tampering with records, illegal commercialization, double allotments and non-compliance with directives under Section 26 of the Sindh Cooperative Societies Act, 2020. They contended that the elections dated 06.04.2025 were bogus and non-transparent and were already declared void vide departmental letter dated 12.09.2025. They denied any allegation of absence of notice or due process, insisting that ample opportunity of defence was afforded. They therefore contended that the appointment of the Administrator is lawful, intra-vires, made in public interest and

intended to restore order and conduct fresh elections. The petition is alleged to be *mala fide*, based on suppression and devoid of locus standi.

7. Respondent No.5, who was appointed as Administrator under Notification dated 28.08.2025, has stated that the petitioner lacks locus standi, having never been an elected Chairman. He stated that elections were not held for nearly two decades owing to the petitioner's persistent concealment of essential records and repeated filing of petitions to obstruct lawful elections. He relied on an inquiry report from the Deputy Registrar highlighting mismanagement, corruption, non-audit of accounts and unauthorized custody of society records by the petitioner. According to him, the petitioner was never a duly elected office bearer and therefore cannot claim protection under Section 6 (2-A) of the Ordinance of 1982. He stated that the petitioner withheld membership data and repeatedly frustrated attempts to hold elections by procuring interim orders. Respondent No.5 stated that the Government is legally empowered to appoint any fit person as Administrator and that the SOPs dated 21.08.2025, though instructive, are not mandatory. He therefore prayed that interim relief be declined and the impugned notification be sustained.

8. Conversely, learned counsel for the petitioners argued that all impugned notifications across these petitions were issued without reference to any statutory provision and in complete disregard of Section 6 (2) and Section 6 (2-A) of the Sindh Cooperative Housing Authority Ordinance, 1982. They argued that supersession of elected committees is permissible only upon non-compliance with lawful directions or after holding an inquiry under Section 6 (1), neither of which occurred. No show-cause notices were issued, nor was any opportunity of hearing provided, thereby violating Articles 4 and 10-A of the Constitution. Learned counsel argued that annual elections were duly held under Bye-law 47 (a) and Rule 9(2) of the Sindh Cooperative Societies Rules, 2020, with due intimation to the Assistant Registrar, including transmission of minutes and election results. The counsel argued that respondents, despite being repeatedly invited, abstained from participating in elections and then issued inquiries and supersession orders to justify the appointment of administrators. They further argued that in C.P. No.D-1676/2025, even the respondents' own Notification dated 10.04.2025 recognized the newly elected Managing Committee, rendering the

subsequent supersession baseless and fabricated. They further argued that appointments of administrators violate the SOPs dated 21.08.2025, which specifically mandate giving preference to officers of the Cooperative Department. The appointed administrators belong to unrelated departments and lack requisite knowledge of cooperative law. Learned counsel argued that persistent *mala fides* and warns that if elections are required, they must be held only through a transparent and independent mechanism, not via arbitrary supersession.

9. Learned counsel for the petitioners further argued that the inquiries purportedly initiated by the respondents are without lawful authority and based on assumptions unsupported by any competent or approved inquiry report and that the impugned notifications, being grounded on such unauthorized actions, lack legal sanctity and deserve to be struck down.

10. We have heard all learned counsel including the learned Additional Advocate General Sindh and minutely examined the record, including the impugned notifications issued for appointment of Administrators purportedly under Sections 6 (2) and 7 of the Sindh Cooperative Housing Authority Ordinance, 1982. We have also carefully considered the statutory framework, the competing claims regarding the occurrence or absence of elections, the nature of departmental inquiries and the effect and legal standing of the SOPs dated 21.08.2025 issued by the Cooperative Department.

11. From the cumulative material placed before us, several important aspects emerge. **Firstly**, the statutory scheme governing Cooperative Housing Societies, particularly, under the Sindh Cooperative Societies Act, 2020 and the Sindh Cooperative Housing Authority Ordinance, 1982, envisages democratic governance, periodic elections, financial transparency and supervisory oversight by the department. Thus, while the Government possesses supervisory authority, such power cannot be exercised arbitrarily or in derogation of statutory safeguards. **Secondly**, the petitioners stated that valid annual elections were regularly conducted with due notice to the statutory authorities and that any contrary allegation is based on selective inquiries or departmental abstention. On the other hand, the respondents have placed reliance on inquiry reports alleging long-standing mismanagement, fabricated election records and non-audit of accounts. Notably, there appears

considerable dispute as to the authenticity and legal validity of the alleged elections, the nature of inquiries conducted and whether fair notice and opportunity was afforded. **Thirdly**, the repeated supersession of elected bodies across multiple societies, often without a uniform or transparent inquiry mechanism, raises legitimate concerns about procedural fairness and proportionality. Even, where supervisory intervention is warranted, it must conform to Articles 4 and 10-A of the Constitution, which guarantees protection of law and fair trial. The departmental claim that opportunities were provided must be evaluated against the record, which in several instances appears fragmented or lacking reference to formal show-cause notices. **Fourthly**, the **Notification dated 21.08.2025** issued by the Cooperative Department clearly lays down operative SOPs governing appointment of Administrators, emphasizing **(a) preference to officers of the Cooperative Department and (b) limited tenure of three to six months**. These SOPs were issued by the very department entrusted and therefore must carry significant persuasive weight in ensuring uniformity, transparency and avoidance of arbitrary appointments. **Fifthly**, despite this clear departmental position, the impugned notifications in several petitions reflect appointment of administrators from departments unconnected with Cooperative Affairs, without demonstrating compliance with essential pre-conditions such as prior NOC or justification for deviation. The respondents have contended that these SOPs are directory and not binding, yet no reasons have been provided explaining why the established protocol was bypassed, particularly when such deviation affects the independence of cooperative societies and challenges confidence in the impartiality of administrative supervision. **Sixthly**, the record also reveals disputes regarding whether the respondents' own earlier notification dated 10.04.2025 recognized certain elections. This creates further doubt about the consistency of the departmental position and strengthens the need for judicial intervention to restore transparency and uniformity. Taken together, these aspects demonstrate that while the Government retains the authority to supersede management in cases of persistent misconduct, such power must be exercised in strict conformity with statutory procedure, constitutional safeguards and departmental SOPs designed to prevent abuse. Where supersession orders are issued in deviation of governing norms, particularly in the absence of proper inquiry, notice or compliance with the SOPs, the Court is justified in intervening to correct procedural

irregularities and to ensure that future elections are conducted fairly, transparently and without suspicion of bias or arbitrariness.

12. In view of the foregoing discussion, it has clearly emerged that the appointment of Administrators in the present matters, particularly those belonging to departments other than the Cooperative Department, was made in deviation of both procedural fairness and the express administrative framework governing such appointments. The Notification dated 21.08.2025, issued by the Cooperative Department, unequivocally stipulates that; **priority shall be given to officers/officials of the Cooperative Department who are conversant with cooperative laws and regulations; where an officer from any other department is to be appointed, a prior NOC from the parent department is mandatory; the Administrator must possess minimum qualification, meet eligibility criteria and be appointed with a clear mandate; and the tenure of appointment shall ordinarily be three to six months.**

13. Despite such binding administrative criteria aimed at ensuring competence, neutrality and procedural propriety, the impugned notifications in C.P. No.D-275/2018, C.P. No.D-2418/2019, C.P. No.D-235/2024, C.P. No.D-600/2024, C.P. No.D-3200/2018 and C.P. No.D-1676/2025 reflect clear deviations, including appointment of persons from unrelated departments; absence of recorded justification for such deviation; and lack of demonstration that the mandatory NOC requirement or eligibility conditions were fulfilled. Such irregularities undermine the legitimacy of supersession actions and render the impugned notifications unsustainable in law. Accordingly, all such notifications issued in violation of the Notification dated 21.08.2025 are declared to be in deviation of the governing framework.

14. In order to restore lawful governance, ensure transparent administration, and to bring uniformity in the functioning of all concerned Cooperative Housing Societies, it is imperative that the process of appointing Administrators and conducting elections be placed on a legally sound and institutionally neutral footing. **Accordingly, the Cooperation Department, Government of Sindh, acting strictly through its Secretary, is directed to appoint an Administrator for each of the subject Societies within a maximum period of three months from the date of this judgment. Such appointment shall**

be made strictly in accordance with the Notification dated 21.08.2025, which mandates that the Administrator must be an officer from the Cooperative Department only, duly conversant with cooperative law, rules and regulations and shall in no case be below the rank of BPS-17. The requirement of selecting an officer from within the Cooperative Department is not merely preferential but foundational to ensuring competence, impartiality and adherence to the statutory scheme governing cooperative societies. Once appointed, the Administrator(s) shall immediately undertake the process of preparing a comprehensive, updated and accurate list of bona fide voters/members of the respective societies. This exercise shall be conducted strictly in accordance with the Cooperative Societies Act, 1925 (as applicable), the Sindh Cooperative Societies Act, 2020, the Rules framed thereunder, and the relevant registered bye-laws of the societies. The Administrator shall verify membership records, rectify discrepancies, address objections and ensure that no eligible member is excluded and no ineligible person is included. After completion of this preparatory stage, the Administrator(s) shall proceed to organize and conduct elections of the Managing Committees of the respective societies strictly in accordance with statutory provisions and the registered bye-laws.

15. To guarantee fairness, transparency and uniformity in the entire electoral process across all concerned societies and to eliminate any perception of departmental undue influence, it is further directed that the elections of all such societies shall be conducted under the direct supervision of Additional Registrar of this Court. His role shall be supervisory and neutral, ensuring that the election timelines, voter verification, polling procedures, counting of ballots and declaration of results fully comply with statutory requirements and recognized independent norms. **The entire exercise, including (i) preparation and verification of voters' lists, (ii) publication of the final list, (iii) nomination process, (iv) polling and (v) declaration of election results, shall be completed within a maximum period of three months.** Upon successful completion of the elections, the Administrator shall forthwith hand over the complete charge of the society to the newly elected Managing Committee without any delay or administrative obstruction. In recognition of the additional judicial responsibility entrusted to him, the remuneration of Rs.200,000/- (Rupees Two Hundred Thousand only) per society is fixed for Additional Registrar

of this Court, which amount shall be deposited in advance by each respective Society before commencement of the election exercise.

16. These petitions stand **disposed of** in the above terms, along with pending application(s), if any.

JUDGE

JUDGE