

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Constitutional Petition No.D-1513 of 2025

(Azhar Ali Soomro v. Chancellor Sukkur IBA University & others)

PRESENT:

MR. JUSTICE ZULFIQAR ALI SANGI

MR. JUSTICE RIAZAT ALI SAHAR

Petitioner : Azhar Ali Soomro through Mr. Kashif Hussain Shaikh, Advocate.

Respondents No.1to3: Mr. Asif Ali Shaikh, Vice Chancellor, SIBA Sukkur (respondent No.2) appeared in person.

Respondents No.4&5: Through Mr. Ali Raza Baloch, Additional Advocate General- Sindh.

Date of Hearing : 04.09.2025

Date of Decision : 04.09.2025

J U D G M E N T

RIAZAT ALI SAHAR J: - Through this judgment, we propose to decide the instant constitutional petition filed by the petitioner, with the following prayers:-

- a) *That this Honourable Court may be pleased to declare that the rejection of the petitioner's candidature is illegal, arbitrary and without lawful authority.*
- b) *That this Honourable Court may be pleased to direct the respondents to reinstate the petitioner's candidature in the recruitment process, considering him strictly on merit and in accordance with law.*
- c) *That this Honourable Court may be pleased to declare that the constitution of multiple scrutiny committees without lawful sanction as illegal and void ab initio.*
- d) *That this Honourable Court may be pleased to grant ad-interim injunction by restraining the respondent University from proceeding with the interviews scheduled for on 9th September 2025, until the final decision of this petition.*

- e) *This award any other equitable relief, this Honourable Court deems fit and proper under the circumstances of the case.*
- f) *To award costs of the petition.*

2. The petitioner has asserted that he is a qualified and experienced officer of Sukkur IBA University (**“Respondent-University”**), presently serving as Additional Registrar and holding the look-after charge of Registrar. He has submitted that despite holding such interim charge, he has never interfered with the recruitment process for the permanent tenure-based post of Registrar, yet he retains a legal and constitutional right to compete for the said post. He has further asserted that the Respondent-University issued an advertisement dated 22.09.2024 inviting applications for the statutory position of Registrar (BPS-20) along with other positions, with a clear stipulation that **“age relaxation will be as per Government of Sindh Notification, if any.”** The Syndicate of the Respondent-University had approved qualifications, experience and pay scale for the post, but neither excluded nor expressly adopted the age relaxation. However, once the Respondent-University committed in the advertisement to apply the Government notification, it created a binding representation and legitimate expectation for all applicants including the petitioner. The petitioner has further asserted that he applied within the stipulated date of 22.10.2024, thereby acquiring a vested right to be considered in terms of the advertisement and the then prevailing government policy. He has further asserted that the Government of Sindh, vide Notification dated 16.10.2024, prospectively withdrew the 15-year relaxation with effect from 01.01.2025. Subsequently, the Honourable Supreme Court in ***Ayaz and others v. Mustafa Saeed and others* (2024 SCMR 101)** struck down the blanket 15-year relaxation for future recruitments but did not apply its judgment

retrospectively, thereby saving the petitioner's case. Notwithstanding this, the Respondent-University rejected the petitioner's candidature on the ground of overage, merely communicating through a portal text message. Instead of obtaining authoritative clarification from the Law Department through Universities & Boards Department, Government of Sindh, the Respondent-University acted upon a private legal opinion which carried no statutory value. The scrutiny process was also conducted through constitution of two separate committees without sanction, which, according to petitioner, renders the process arbitrary and vulnerable to judicial review. He asserted that his private legal opinion was also ignored and that the Respondent-University, through reply of its counsel dated 20.08.2025 to his legal notice dated 11.08.2025, reaffirmed rejection of his candidature, though neither the Sukkur IBA University Act nor its Rules authorize such exclusion. The petitioner has also stated that both the Government Notification dated 16.10.2024 and the Supreme Court's judgment are prospective and his eligibility stood secured at the time of submission of application. The Respondent-University, having itself undertaken in the advertisement to allow age relaxation, is estopped from denying the same and its deviation amounts to violation of the doctrine of legitimate expectation. According to the petitioner formation of multiple scrutiny committees and reliance upon a private legal opinion rather than statutory clarification have vitiated the entire process. He claims protection of his constitutional rights under Articles 4, 10-A, 18 and 25 of the Constitution.

3. When this petition was taken up, learned A.A.G. Sindh produced a copy of order dated 22.08.2022, whereby the petitioner was allowed additional charge of Registrar and it was directed that the process for permanent appointment be completed within

three months. Since the process was still not concluded and petitioner continued to hold additional charge for the period of more than three years, this Court directed the Vice Chancellor of Sukkur IBA University to appear in person.

4. In compliance, respondent No.2/Vice Chancellor, Sukkur IBA University, appeared on 04.09.2025 and filed statement with documents. He stated that he assumed office on 24.02.2023 after due process of law. As per the record, pursuant to Resolution No.17.6 of the 17th Syndicate Meeting held on 13.08.2022 and after expiry of tenure of the then Acting Registrar, the petitioner (Additional Registrar, BPS-19) was assigned look-after charge of Registrar (BPS-20) for a period of three months till appointment of a full-time Registrar. Office order dated 23.08.2022 was accordingly issued. **However, as per Syndicate resolution, petitioner was duty bound to complete recruitment within three months, which he failed to do.** The Vice Chancellor further stated that he sought permission from the Universities & Boards Department through letters dated 07.06.2023, 24.08.2023 and 26.09.2023 for filling vacant key positions including Registrar. **He submitted that the petitioner himself, while acting as Registrar, reviewed and signed the note-sheet approval which provided the age criteria as 35-50 years and he also issued Notification dated 26.09.2024, whereby the Syndicate in its 19th meeting approved the eligibility criteria for eight key non-teaching posts including Registrar. On such basis, the advertisement was issued on 22.09.2024 and 553 applications were received.** It is further his stance that the Selection Board was constituted under the Act and call letters were issued to shortlisted candidates on 17.08.2025, results announced on 19.08.2025 and interviews rescheduled to 08-09.09.2025 due to floods. He submitted that the petitioner's own signatures on all relevant

note-sheets and notifications demonstrate his complicity and that filing of the instant petition is a *mala fide* attempt to derail a lawful merit-based recruitment process so as to cling to additional charge. According to him, the process is now at the verge of completion and he prayed for one week's time to furnish compliance report after finalization of appointment of full-time Registrar.

5. Learned counsel for the petitioner contended that the petitioner, being a qualified and experienced officer of the Respondent-University, was fully eligible to contest for the permanent post of Registrar. He further contended that the petitioner applied within the deadline, thereby securing a vested right to consideration under the existing policy, which was later prospectively withdrawn by the Government Notification dated 16.10.2024 and further saved by its explicit saving clause. He further contended that the subsequent judgment of the Hon'ble Supreme Court striking down the blanket relaxation was prospective in nature and did not affect the petitioner's case. The rejection of petitioner's candidature on the sole ground of overage, based merely on a private legal opinion and constitution of scrutiny committees without sanction, was unlawful. Learned counsel further contended that such arbitrary action amounted to violation of legitimate expectation, estoppel and constitutional guarantees under Articles 4, 10-A, 18 and 25 of the Constitution. He, therefore, prayed that the petition may be allowed as prayed.

6. Conversely, learned A.A.G. Sindh contended that the petitioner, while holding additional charge of Acting Registrar, Sukkur IBA University, misused his position by inserting an unrealistic fifteen-year age relaxation in the recruitment advertisement without approval of the competent authority, thereby creating a person-specific and tailor-made eligibility

criterion. It was argued that this conduct amounted to a clear conflict of interest, offending principles of natural justice and Section 17 of the Sukkur IBA University Act, 2017, as the Syndicate alone is empowered to prescribe qualifications and consider any relaxation. The petitioner, being the signatory of the very advertisement he now challenges, cannot claim a vested right to relaxation or selection, particularly when the Syndicate never approved such concession. Reliance was placed on the case of Ayaz & others (**supra**) declaring fifteen-year relaxation as unrealistic, reiterating that institutional autonomy must be respected, and that candidates acquire no vested right in recruitment. The petition was thus asserted to be *mala fide*, aimed at derailing a competitive process that is at its final stage, and it was urged that the same be dismissed with exemplary costs to safeguard merit, transparency, and institutional independence. He, therefore, prayed for dismissal of the petition.

7. Respondent No.2, Professor Dr. Asif Ahmed Shaikh, the Vice Chancellor Sukkur IBA University, endorsed the submissions of learned A.A.G. Sindh and stated that the petitioner was assigned only interim charge of Registrar for three months, but failed to complete the recruitment process within that period. He emphasized that the petitioner himself signed the note-sheets, notifications and criteria fixing the age limit and later challenged the same to obstruct the recruitment process. He submitted that the process for appointment of full-time Registrar (three years tenure post) is now at the final stage, the Selection Board has been convened and only compliance after appointment remains. He prayed that the petition be dismissed as misconceived and *mala fide*.

8. Heard learned counsel for the petitioner, learned A.A.G. Sindh and the Vice Chancellor, Sukkur IBA University,

present in person. Record has been examined with their assistance.

9. The essential question before this Court is whether the petitioner, having admittedly crossed the prescribed upper age limit as determined and notified by the Syndicate of the Respondent-University, could claim a vested legal right to be considered under the withdrawn age relaxation policy of the Government of Sindh. It is an admitted position that the eligibility criteria for three years tenure post of Registrar, including the age bracket of 35 to 50 years, was duly placed before and unanimously approved by the Syndicate in its 19th meeting held on 27.08.2024 and the notification dated 26.09.2024 was accordingly issued under the petitioner's own signatures while holding the charge of Registrar. Having himself endorsed and implemented such criteria, the petitioner is estopped from turning around to challenge the very notification he authenticated. His attempt to rely upon the Government's earlier relaxation policy is misplaced, for the Respondent-University being an autonomous statutory body has acted within its jurisdiction to frame and enforce its own recruitment criteria. The reliance placed by the petitioner upon the Government Notification dated 27.07.2020 granting general relaxation of fifteen years and its subsequent withdrawal dated 16.10.2024 as well as another Notification dated 06.03.2025, issued by the Government of Sindh providing a general 5-year age relaxation, is misconceived. Once the Syndicate, being the competent statutory authority under the Sukkur IBA University Act, 2017, had itself fixed the age criteria, the Respondent-University was not bound to apply any such external notification. The advertisement of 22.09.2024, when read with the Syndicate resolution, clearly embodied the criteria subsequently challenged by the petitioner.

10. Even otherwise, such notifications cannot be applied in the present context since the relaxation was meant for 'Departments' of Government of Sindh. It is important to clarify that Sukkur IBA University is a public-sector institution established by an Act of the Sindh Assembly. While it receives substantial government funding and its degrees are recognised by the Higher Education Commission (HEC), it is not a government department like the Education or Police Departments. Rather, it is an autonomous statutory body with its own Board of Governors [Syndicate] and Vice Chancellor. The University frames its own academic and administrative rules under its Act, operates independently in day-to-day matters, yet remains subject to government oversight and public accountability.

11. It must also be underscored that the petitioner was never appointed to the post of Registrar through any regular process, but was merely entrusted with the look-after charge on 23.08.2022 pursuant to Resolution No.17.6 of the 17th Syndicate Meeting, which arrangement was expressly limited to a period of three months or until the appointment of a full-time Registrar, whichever occurred earlier. The very language of the Resolution and the Office Order issued in consequence thereof demonstrates beyond doubt that such entrustment was temporary, transitional and incapable of conferring any vested right upon the petitioner. Yet, the petitioner not only continued to occupy the office far beyond the stipulated three months but also sought to obstruct and delay the regular recruitment process, despite the mandate of the Syndicate and earlier order dated 22.08.2022, issued by the respondent No.2 that the process be completed expeditiously. His conduct, therefore, does not evince bona fides but, on the contrary, manifests a clear design to prolong his own continuation under a stop-gap arrangement by raising technical objections and invoking

doctrines which are inapplicable to his case. It is a settled proposition of law that an “acting” or “look-after” arrangement neither creates substantive rights nor generates legitimate expectation of permanence. The petitioner, having himself authenticated the eligibility criteria including the age bracket approved by the Syndicate, is estopped from challenging the very notification issued under his hand. To allow such conduct would amount to permitting an officer to approbate and reprobate at the same time, which is alien to the principles of law. The settled jurisprudence is that no vested right can accrue from an interim, illegal, or irregular appointment and the doctrine of locus poenitentiae cannot be invoked to perpetuate an illegality. The petitioner’s continued occupation of the office after expiry of the three-month mandate, coupled with his attempt to exploit a withdrawn policy for personal benefit, is legally untenable and devoid of merit.

12. As far as the petitioner’s plea that he acquired a vested right to be considered under a withdrawn relaxation policy is concerned, we are of the opinion that it is untenable and his eligibility is to be tested strictly against the Syndicate-approved criteria. Even otherwise, as per advertisement, award of age relaxation, cannot, as a collaterally, be relaxed, which is not automatically binding upon Respondent-University, it is a discretionary and but not as a surety, as such, this claim of the petitioner carries no consideration as binding upon the Respondent-University for relaxation of upper age in his favour in any case. There are no blanket relaxation for the appointments, without creating any vested right in favour of candidates who did not fulfill the statutory eligibility criteria prescribed by the competent authority. The doctrine of “legitimate expectation” cannot override explicit statutory provisions. Since the petitioner undisputedly does not fall within the prescribed age bracket, his

candidature was rightly rejected. **More so, the petitioner, while himself being a custodian of the office of Registrar, delayed and obstructed the recruitment process instead of facilitating its completion within three months as mandated by the Syndicate and the earlier order dated 22.08.2022, issued by the respondent No.2.** His conduct in first endorsing the criteria and later challenging it, *prima facie*, demonstrates *mala fide* intent to prolong his own continuation on additional charge or look-after charge.

13. The argument of the petitioner premised upon the Government of Sindh's notification regarding general age relaxation is equally misconceived. Section 17 of the Sukkur IBA University Act, 2017 is a special law enacted by the Legislature specifically to regulate the affairs of the Respondent-University. This provision vests in the Syndicate the exclusive authority to determine the eligibility criteria for the post of Registrar. It is a cardinal rule of statutory interpretation that special law prevails over general law — a principle repeatedly affirmed by the Honourable Supreme Court, inter alia, in *Neimat Ali Goraya v. Jaffar Abbas (1996 SCMR 826)*. Furthermore, by drawing an analogy from the judicial precedents reported as *M/s Messrs Noorani Traders, Karachi v. Pakistan Civil Aviation Authority through Airport Manager, Karachi (PLD 2002 Karachi 83)*, *Ismail v. The State (2010 SCMR 27)*, *The State v. Mst. Fazeelat Bibi (PLD 2010 Lahore 498)*, it has been consistently recognized that where a special law exists, it shall prevail over the general law. Thus, even if a general notification of the Government were in the field, the same could not override the mandate of the Respondent-University's special statute. The Syndicate, in its wisdom, fixed the upper age limit at fifty years, and once so determined, neither the Acting Registrar nor any administrative officer could dilute or modify it by reference to a

general notification. Section 17 of Sukkur IBA University Act, 2017 is reproduced as under:

“Section-17

(1) *There shall be a Registrar who shall be whole time officer of the university and shall be appointed by the Syndicate on the recommendation of the selection board and in consultation with the Vice Chancellor for a period of three years on such terms and conditions as the Syndicate may determine.*

(2) *The experience as well as the professional and academic qualifications necessary for appointment to the post of registrar shall be as may be prescribed. He shall-*

(a) *Be the administrative head of the secretariat of the university and responsible for the provision of secretariat support to the authorities of the University;*

(b) *be the custodian of the common seal and the records of the university.*

(c) *Maintain a register of registered graduates in the prescribed manner.*

(d) *Supervise the process of election appointment or nomination of members to the various authorities and other bodies in the prescribed manner, and*

(e) *perform such other duties as may be prescribed.*

(3) *The term of the Registrar shall be renewable for a period of three years:*

Provided that the syndicate may, on the advice of Vice Chancellor terminate the appointment of Registrar on the grounds of inefficiency or misconduct in accordance with prescribed procedure.”

14. The relief sought by the petitioner is also barred by the equitable maxim that *he who seeks equity must come with clean hands*. The petitioner, while invoking the extraordinary jurisdiction of this Court under Article 199 of the Constitution, was duty-bound to disclose that **the very advertisement with regard to relaxation of age, under challenge, was issued under his own signatures without seeking approval of Syndicate of the Respondent-University for this particular item while holding charge as a Registrar.** Suppression of this material fact amounts to concealment which, by itself, is sufficient to disentitle him from equitable relief. The petitioner’s omission to candidly acknowledge [Paragraph No. 5 of Memo of Petition] his role as signatory to the advertisement demonstrates *mala fide* intent and lack of candour, thereby attracting the bar of clean hands.

Para No. 5 of the Petition:

“That as per terms and conditions for the position of Registrar, such as qualifications, experience, and pay scale, were approved by the Syndicate, which is the competent statutory authority under the Sukkur IBA University Act 2017. However, the Syndicate neither explicitly included nor excluded the application of the Government of Sindh's age relaxation policy.”

15. We consider that the delay in completion of the process for appointment of the various posts including the post of Registrar was occurred due to repeatedly correspondence of the petitioner (Additional Registrar) holding the charge additional charge of Registrar with *mala fide* intention as he himself was also candidate for the post of Registrar and was not fulfilling the requisite criteria being overage, as such, he attempted to get himself eligible for the post of Registrar. He was assigned additional charge of Registrar for three months till of a full-time Registrar on 23.08.2022 and he is continuing the same till today. It is by now well-settled that any appointment, deputation or posting made in contravention of law does not confer any vested right upon the incumbent and the principle of locus poenitentiae would not apply to perpetuate an illegality. No legitimate expectation can be claimed against the mandate of law and an act done without jurisdiction or contrary to statutory provisions cannot be validated merely on the ground of past practice or administrative convenience. In this regard we are fortified by the principle enunciated by the Honourable Supreme Court in the case reported as ***“Federation of Pakistan through Secretary Establishment Division v. Muhammad Azam Chattha and others (2013 SCMR 1752).***

16. It is of considerable relevance that the petitioner has continued to occupy the office of Acting Registrar for a period exceeding three years, notwithstanding the Syndicate's resolution limiting such charge to a maximum of three months. This prolonged acting arrangement is manifestly in derogation of the

binding directions of the Honourable Supreme Court in ***All Public Universities BPS Teachers Association v. Federation of Pakistan (2025 SCMR 322)***, wherein it was unequivocally declared that acting charges of tenured statutory posts must not be extended beyond six months. By remaining in office well beyond the permissible period, and by employing this position as leverage to influence the recruitment process, the petitioner has acted in a manner contrary to law and to authoritative judicial pronouncements. To recognise any right arising out of such an illegal continuation would amount to condoning and perpetuating illegality—an approach which this Court is neither inclined nor prepared to adopt.

17. Moreover, no vested right or legitimate expectation accrues in favour of the petitioner, for no candidate may claim a vested right to selection or to the relaxation of prescribed age limits when such relaxations are inconsistent with law or statutory provisions. The superior Courts have consistently declined to enforce age relaxations as a matter of right, instead leaving such matters to the discretion of the competent authority, namely the Syndicate. In the present case, the Syndicate was not even apprised; rather, the petitioner, acting unilaterally and for personal gain, inserted age relaxation and crafted a tailor-made, person-specific advertisement. Such conduct is patently unlawful, wholly unjustified, and constitutes a blatant abuse of process. The Honourable Supreme Court, in ***Abdul Sattar Jatoi v. Chief Minister Sindh (2022 SCMR 550)***, has categorically held that the creation of a person-specific post for the exclusive benefit of an individual is illegal. Accordingly, the petitioner's actions warrant censure, and he is liable to be penalised by the imposition of exemplary costs for concealment of material facts and misuse of judicial process.

18. It must further be emphasised that the **office of Registrar is a tenured statutory position** of central importance to the administration of a public sector university. Transparency in the recruitment of such a pivotal office is indispensable for safeguarding the credibility, autonomy, and academic independence of the institution. Any attempt to derail the recruitment process for personal benefit infringes not only upon the rights of competing candidates but also upon the institutional integrity of the university. The Apex Court in the case of All Public Universities BPS Teachers Association (**supra**) has expressly directed that tenured statutory posts be filled strictly on merit, within the framework of governing statutes, and not left in the charge of acting officers beyond the period of six months.

Relevant Abstract of the case of All Public Universities BPS Teachers Association (**supra**) is as under:

“39. Therefore, for the aforesaid reasons, this petition is allowed and in addition to the specific orders and directions as noted above all Federal and Provincial Public Sector Universities (the Universities), the Federal Ministries of Education, Science and Technology and Defense, the Provincial Ministries of Education, the HEC and the Provincial Higher Education Departments (‘HEDs’) are directed as under:

(a).....

(b) Appointments be made to all tenured positions in the universities as prescribed in their respective laws, including those of the Vice Chancellors, Registrars, Director-General, Deans, Treasurers/Directors of Finance, Controller of Examinations, Chairpersons and other specified therein and this must be done transparently and on merit by stipulating their respective criteria and inviting appointments through respective websites and advertisements.

(c) Vacant tenured positions must not be held for more than six months on acting charge basis and such temporary charge be given to that person who is specified in the applicable law and in absence thereof to a person of equivalence seniority failing which to the person next in the seniority.”

(..).....

(m).....

40. Copy of this judgment be sent to the HC and the beds for onward transmission to the public sector universities under their respective jurisdiction for information and compliance. Copies for information and compliance we also sent to the Ministries of Education Science and Technology and Defense of the federal government and to education ministries in the provinces.

41. In view of the public importance of this matter, this judgment is to be translated into Urdu, however, the English version shall be treated as the decision of this court in terms of article 189 of the constitution”.

19. In light of the above, the petitioner’s attempt to cling to charge and obstruct the recruitment process undermines the larger public interest, which this Court is constitutionally obliged to protect. However, it has been placed on record that the Vice Chancellor has made an undertaking that the petitioner shall be relieved of his additional charge of Registrar, and that a new office bearer will be entrusted with the charge forthwith. He has also undertaken that a substantive appointment to the post of Registrar shall be made in accordance with law and prescribed procedure within a period of three months. This Court places reliance upon the assurance so furnished, reposing confidence that the same shall be honoured in letter and spirit.

20. In view of the above, the petition is devoid of merit. The rejection of the petitioner’s candidature does not suffer from any illegality or arbitrariness warranting interference of this Court. The process for appointment of a full-time Registrar being already at its concluding stage shall proceed unhindered. As a result of the above, instant petition stands **dismissed**. ***These are the reasons for our short order dated 04.09.2025.***

JUDGE

JUDGE

“Approved for Reporting”

Ahmad