

**IN HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD**

C.P. No.S-178 of 2026

[Allah Bux Dhamrah v. Province of Sindh & others]

Petitioner : Allah Bux Dhamrah through
Mr.Wakeel Ali Shaikh, Advocate.

Respondents : Nil.

Date of Hearing : 11.03.2026

Date of Decision : 11.03.2026

ORDER

RIAZAT ALI SAHAR. J. - Through this instant Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner seeks to challenge the legality and propriety of the impugned order dated 02.03.2026 passed by the Respondent No. 04, the Registrar of Trade Unions, Hyderabad Region, whereby the petitioner has been debarred from the membership as well as from holding the office of President of Sindh Irrigation Trade Unions Mutahida Federation, Western Sindh Circle Dadu. Thus, seeking following reliefs:-

- a) *To, declare the impugned order passed by respondent No. 04 vide dated: 02.03.2026 is null, void, in the eyes of law and against the SIRA act 2013.*
- b) *To, suspend the operation of order vide dated: 02.03.2026 passed by respondent No. 04.*
- c) *To grant any other adequate and equitable relief in view of the above-stated facts and circumstances of the case.*

2. The brief facts leading to the filing of the instant Constitutional Petition, as gathered from the contents of the memo of petition and the documents appended therewith, are that the petitioner, namely Allah Bux Dharmah, is serving as a Junior Clerk (BPS-11) in the Irrigation Department, Government of Sindh and is presently working in the office of the Executive Engineer, Irrigation Shahbaz Division, Sehwan since 31.12.2011. Besides performing his

official duties, the petitioner claims to have been actively engaged in trade union activities concerning the welfare and rights of employees working in the Irrigation Department. It is the case of the petitioner that he was elected as the President of Sindh Irrigation Trade Unions Mutahida Federation, Western Sindh Circle Dadu, which is stated to be a registered federation under the Sindh Industrial Relations Act, 2013, and such election was acknowledged through a notification issued by the Registrar of Trade Unions, Hyderabad Region vide letter dated 06.06.2024.

3. It is further averred that disputes subsequently arose between the petitioner and certain members of another union, particularly Respondent No.07 and Respondent No.08, who allegedly challenged the eligibility of the petitioner to hold office in the trade union on the premise that the petitioner, being a civil servant employed in the Irrigation Department, does not fall within the definition of a “workman” under the relevant labour laws and, therefore, cannot lawfully hold the office of President of a trade union or federation of workmen. In this regard, Respondent No.07 instituted Constitutional Petition No. S-433 of 2024 before this Court seeking, *inter alia*, a declaration that the petitioner, being a Junior Clerk (BPS-11) in the Irrigation Department, is a civil servant and thus disqualified from being a member or office bearer of a trade union constituted for workmen. The said petition was disposed of by this Court vide order dated 02.02.2026.

4. Pursuant to the disposal of the aforesaid constitutional petition, the Registrar of Trade Unions, Hyderabad Region (Respondent No.04), proceeded to examine the matter and subsequently passed an order dated 02.03.2026 whereby the petitioner was debarred from the membership of the said federation and also from holding the office of President of Sindh Irrigation Trade Unions Mutahida Federation, Western Sindh Circle Dadu with immediate effect. Feeling aggrieved by the said order, the petitioner has approached this Court through the present Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, contending that the impugned

order has been passed without lawful authority, in violation of the provisions of the Sindh Industrial Relations Act, 2013 and the principles of natural justice and that the same infringes his constitutional rights including the freedom of association guaranteed under Article 17 of the Constitution. Accordingly, the petitioner seeks declaration of the impugned order as illegal, void and without jurisdiction, along with suspension of its operation and any other relief deemed appropriate by this Court.

5. Heard learned counsel for the petitioner and perused the record available before this Court. The controversy requiring determination is narrow yet fundamental, (i) whether a person admittedly serving as Junior Clerk (BPS-11) in the Irrigation Department, Government of Sindh, can invoke the constitutional jurisdiction of this Court to assail an order passed by the Registrar of Trade Unions regarding his continuance as member / office-bearer of a federation governed by the Sindh Industrial Relations Act, 2013 and (ii) whether such petition is maintainable in the presence of a complete statutory mechanism provided under the special law itself. The answer, in the considered view of this Court, is in the negative.

6. At the very outset, it is to be observed that the petitioner has himself pleaded that he is serving in the Irrigation Department, Government of Sindh and that the impugned order dated 02.03.2026 was passed after an earlier round of litigation concerning his eligibility to hold office in the relevant trade union / federation. Thus, the foundational facts are not in dispute: *firstly*, the petitioner is a civil servant working in the Irrigation Department; *secondly*, the impugned order pertains to his status as office-bearer / member of a trade union federation; and *thirdly*, the matter squarely arises out of the regulatory field occupied by the Sindh Industrial Relations Act, 2013.

7. **The Sindh Industrial Relations Act, 2013** is a special statute enacted “*to regulate formation of trade unions and trade union activities, relations between employers and workmen and the avoidance and settlement of any differences or disputes arising*

between them and ancillary matters.” Its application clause is of decisive importance. Section 1 (3) expressly provides that, although the Act applies to persons employed in an establishment or industry, it *“shall not apply to any person employed ... in the administration of the State other than those employed as workmen by the Railway and Pakistan Post.”* The legislative command is plain, unambiguous and exclusionary. **A person serving in the administration of the State stands outside the protective and participatory fold of the Act, save the specifically carved-out exceptions of Railway and Pakistan Post employees.** The petitioner admittedly serves in the Irrigation Department, which is a department of the Government of Sindh and not in any of the excepted categories. Therefore, *prima facie*, he does not derive any enforceable statutory right under the said Act to insist upon continuance as a member or office-bearer of a trade union or federation constituted for workmen.

8. The position becomes even clearer upon a conjoint reading of sections 2 and 3 of the Act. Section 2 defines **“trade union”** as a combination of workmen or employers, while section 2 (xxxii) defines **“worker” / “workman”** to mean a person employed in an establishment or industry for hire or reward, but excludes a person employed mainly in managerial or administrative capacity. Section 3, which recognizes **trade union freedom**, does so expressly “subject to the provisions of this Act” and confers the right upon workers to establish and join unions of their own choice. Thus, the right under the special statute is not an unqualified or abstract right; it is a conditional statutory right confined to such persons as fall within the Act and satisfy its definitional and structural requirements. A person who falls outside the application of the Act cannot invoke one provision of the Act for benefit while ignoring the threshold exclusion imposed by another. The law does not permit such selective invocation.

9. Learned counsel for the petitioner has attempted to press into service Article 17 of the Constitution on the plea that freedom of association has been infringed. This argument is misconceived. Article 17 indeed secures to every citizen the right to form associations or

unions, but that right is expressly made “*subject to any reasonable restrictions imposed by law.*” The Constitution itself, therefore, subordinates the exercise of associational freedom to lawful statutory regulation. Where the legislature has framed a specialized regime governing trade unions of workmen and has also delimited the classes of persons to whom such regime shall apply, no person excluded by the statute can claim that the very exclusion amounts, by itself, to a constitutional wrong. Article 17 does not confer a license to hold any office in any statutory trade union contrary to the governing law; rather, it protects association within the bounds of law. What the petitioner seeks is not merely freedom to associate, but judicial recognition of an asserted right to remain office-bearer of a federation regulated by a special statute despite the statutory exclusion operating against him. Such a claim cannot be countenanced.

10. There is yet another formidable obstacle in the way of the petitioner. **The Sindh Industrial Relations Act, 2013 is a self-contained code in respect of disputes touching registration, elections, change of office-bearers, and related matters.** Section 9 (7) requires every proceeding of election of office-bearers or change of office-bearers to be notified to the Registrar for approval. Section 9 (8) empowers the Registrar to refuse to register such election or change if it contravenes the Act or violates the constitution of the trade union. Most significantly, section 9(10) provides that where there is a dispute in relation to the election of office-bearers or change of office-bearers, the Registrar, any aggrieved trade union, any office-bearer or member of the trade union may file an appeal before the Labour Court, which is mandated to pass an order thereon. This provision furnishes an efficacious, adequate and specialized statutory remedy before a forum constituted under the Act itself. The petitioner, instead of availing the remedy specifically designed for the very nature of dispute raised by him, has rushed to this Court under Article 199. Such bypassing of the statutory forum is wholly unwarranted.

11. The superior constitutional jurisdiction of this Court is undoubtedly wide, but it is equally well settled that where a special law

creates rights, prescribes obligations, and provides a complete mechanism for redress before specialized forums, constitutional jurisdiction is not to be invoked as a substitute for the statutory remedy, particularly where the matter involves examination of disputed facts, internal union affairs, eligibility, election, change of office-bearers, and compliance with the statutory constitution of the union. The Labour Court and, where applicable, the Tribunal under the Act are the forums better equipped and legally ordained to examine such questions. The Court, in exercise of constitutional jurisdiction, does not ordinarily convert itself into a court of first instance in matters which the legislature has expressly entrusted to specialized labour fora. The petitioner, therefore, has failed to show any extraordinary circumstance warranting departure from this salutary rule.

12. It also requires emphasis that the impugned order appears to have been passed by the Registrar in the exercise of statutory oversight over the affairs of the trade union / federation after the earlier petition regarding the petitioner's eligibility had already been brought before this Court and disposed of. **Whether the Registrar rightly appreciated the petitioner's status, whether any opportunity of hearing was sufficient or otherwise, whether the federation's constitution permitted the petitioner's continuance and whether the change in office-bearer status was to be dealt with in a different manner, are all matters which fall within the statutory province of the Labour Court under section 9 (10) and the ancillary scheme of the Act. These are not matters for a roving constitutional inquiry at the threshold, more so when the petitioner has an alternate remedy.**

13. Even otherwise, on merits, the petitioner does not appear to possess a *prima facie* enforceable right. Section 6 of the Act contemplates that in a trade union of workmen, the executive shall substantially comprise workmen actually engaged or employed in the establishment, group of establishments, or industry for which the trade union has been formed. Section 22 further applies the provisions of the Act, with necessary modifications, to federations of trade unions. Therefore, the statutory framework consistently preserves the

workman-centric character of trade unions and federations. A civil servant serving in the administration of the State cannot, by mere election or previous notification, transform an ineligible status into a vested legal right. There is no estoppel against statute. If an initial approval or recognition was contrary to law, its continuation cannot be insisted upon as a matter of right. An act without lawful foundation does not ripen into a protected entitlement merely because some time has elapsed.

14. The plea of natural justice, as advanced by the petitioner, is also insufficient to rescue the petition. It is settled beyond cavil that where a complete statutory remedy is available, even a grievance touching alleged denial of hearing is ordinarily to be raised before the appellate or corrective forum created by law, unless the impugned action is shown on the face of it to be *coram non judice*, patently *mala fide*, or wholly without jurisdiction. No such exceptional case has been made out here. **On the contrary, the Registrar is one of the principal authorities under the Act, entrusted with registration, scrutiny of office-bearers, holding inquiry into trade union affairs, and determination of related questions.** Thus, the challenge raised by the petitioner is, at best, a challenge to the correctness or propriety of the exercise of statutory power, which must first be tested before the statutory forum.

15. The attempt of the petitioner to invoke constitutional protection while simultaneously ignoring the statutory limitations of the very field in which he claims entitlement is legally untenable. Constitutional jurisdiction is meant to advance lawful rights, not to perpetuate claims contrary to statute. A person excluded from the scope of a labour statute cannot seek constitutional indulgence to secure a position under that statute which the law itself does not recognize. To hold otherwise would amount to rendering the express exclusion in section 1(3) nugatory, frustrating the legislative intent and allowing statutory forums to be bypassed at will. Courts are bound to give effect to the plain meaning of the law, not to dilute it by misplaced equitable considerations.

16. This Court is, therefore, satisfied that the instant petition suffers from multiple incurable defects: *firstly*, the petitioner, being admittedly a civil servant in the Irrigation Department, does not *prima facie* fall within the class of persons to whom the Sindh Industrial Relations Act, 2013 applies; *secondly*, the dispute raised by him pertains to the election / continuance / change of office-bearers, for which an express remedy before the Labour Court is available under section 9 (10) of the Act; *thirdly*, no exceptional ground has been shown for bypassing the statutory remedy; and *fourthly*, no vested or enforceable constitutional right has been demonstrated to justify interference in exercise of extraordinary constitutional jurisdiction.

17. For the foregoing reasons, this Constitutional Petition is *dismissed in limine*, being not maintainable. Consequently, all pending applications, if any, shall also stand dismissed. Needless to observe that if the petitioner is so advised and if permissible under law, he may avail such remedy as may be available to him before the competent forum in accordance with law and any such forum shall decide the matter strictly on its own merits, uninfluenced by any tentative observation made herein beyond the question of maintainability.

18. Office shall communicate this order to the learned Registrar of this Court as well as to the Registrar of Trade Unions concerned for information and compliance.

JUDGE

Approved for reporting

Abdullahchanna/PS