

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

C.P NO. S-582 of 2021

[Irrigation Workers Union & another v. P.O Sindh & others]

Counsel for Petitioners: Mr. Abdul Sattar Sarki, Advocate

Counsels/ Representatives for Respondents: Mr. Allah Bachayo Soomro, AAG

Date of Hearing: 28.01.2026

Date of Judgment: 20.04.2026

JUDGMENT

RIAZAT ALI SAHAR, J: - Through the instant Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioners seek the intervention of this Court against the illegal and unlawful registration of “*Irrigation Employees Union, Rohri Division at Moro,*” allegedly granted in disregard of the mandatory requirements of the Sindh Industrial Relations Act, 2013, and without proper consideration of the objections raised by the petitioners. Thus, seeking following reliefs:

“a. Direct the respondents No. 2 to cancel registration of Irrigation Employees Union, Rohri Division at Moro as the same does not fulfill the requirement of ratio of membership according to Sindh Industrial Relations Act, 2013. As Interim relief, suspend the registration of Irrigation Employees Union, Rohri Division at Moro and also direct the respondents No. 3 to 21 to stop activities of Irrigation Employees Union, Rohri Division at Moro, till final decision of the instant petition.

b. Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the petitioners.”

2. Briefly stated, the controversy in the instant matter arises out of the registration of a third trade union, namely “Irrigation Employees Union, Rohri Division at Moro,” at the behest of respondent Nos.3 to 21. The petitioners, being duly registered and functioning unions within the same establishment, assert that the said registration has been procured in violation of the mandatory provisions of the Sindh Industrial Relations Act, 2013, particularly the requirement of one-fifth membership of eligible workmen. It is their case that the respondents, with *mala fide* intent, inflated their membership by including ineligible persons such as retired employees, phone operators and members already affiliated with other unions and that despite detailed objections and supporting material placed on record, the competent authority proceeded to grant registration without proper verification or application of mind. Aggrieved thereby, and having no adequate alternate remedy, the petitioners have invoked the constitutional jurisdiction of this Honourable Court for redressal of their grievance.

3. Learned counsel for the petitioners contended, at considerable length, that the impugned registration of the so-called “Irrigation Employees Union, Rohri Division at Moro” is patently illegal, without lawful authority and of no legal effect, having been granted in flagrant disregard of the mandatory provisions of the Sindh Industrial Relations Act, 2013. It was emphatically argued that the respondents No.3 to 21 failed to fulfil the essential statutory requirement of possessing one-fifth membership of the total workmen of the establishment, inasmuch as the alleged membership has been fraudulently and artificially inflated by including persons who are not legally eligible to be counted, including retired employees, phone operators belonging to a separate registered union and individuals who are already members of the petitioner unions. Learned counsel contended that such dual or ineligible membership is impermissible in law and renders the very foundation of the registration void ab initio. He further contended that despite the petitioners having filed detailed and timely objections, supported by documentary evidence

including affidavits of alleged members disowning their inclusion, the respondent No.2 acted in a wholly arbitrary and mechanical manner by ignoring the same and proceeding to grant registration without conducting a fair, transparent and lawful verification. The inquiry allegedly conducted by respondent No.23 was assailed as being superficial, defective and tainted with *mala fides*, inasmuch as no proper scrutiny of the status, eligibility or existing union affiliation of the alleged members was undertaken and even the recorded statements of 67 persons were shown to be dubious and forged from their very face. Learned counsel further contended that the impugned order reflects complete non-application of mind, is violative of principles of natural justice and has been passed in a discriminatory and capricious manner so as to favour respondent Nos.3 to 21 for ulterior motives. He contended that the registration of a third union, without lawful basis, has created serious unrest within the establishment and has the potential to disturb industrial peace. He further contended that the appeal filed before the Labour Court was dismissed on the technical ground of maintainability, leaving the petitioners remediless, and thus, the invocation of constitutional jurisdiction of this Court is fully justified. In sum, it was prayed that the impugned registration and certificate issued thereunder be declared illegal, void ab initio, and liable to be set aside.

4. Notices were issued to the respondents, whereupon respondent Nos.7 to 10 appeared through their learned counsel and filed detailed preliminary objections as well as para-wise comments to the petition. Learned counsel for respondent Nos.7 to 10 vehemently contended that the instant constitutional petition is not maintainable in law, being misconceived and filed in utter disregard of the statutory remedy provided under the Sindh Industrial Relations Act, 2013, particularly the appellate and revisional jurisdiction available under Section 48 thereof. He contended that the petitioners have failed to exhaust the adequate and efficacious alternate remedies available under the labour hierarchy, and on this ground alone, the petition is liable to be dismissed in *limine*. Learned counsel further contended that the

registration of “Irrigation Employees Union, Rohri Division, Moro” was granted strictly in accordance with law after due inquiry and satisfaction of the Registrar of Trade Unions regarding fulfillment of the mandatory requirement of one-fifth membership, which was duly verified through the Assistant Director Labour (Trade Unions), Hyderabad, in the presence of representatives of the petitioner unions, who did not raise any objection at the relevant time and even endorsed the statements of the workers. He further contended that the petitioners lack *locus standi* to challenge the registration of a trade union, as such, matters fall exclusively within the domain of the Registrar under the Sindh Industrial Relations Act, 2013 and the certificate of registration is conclusive proof of lawful registration. Learned counsel also contended that the petition suffers from non-joinder of necessary parties, including the registered union itself and the inquiry officer, and is otherwise, based on disputed questions of fact which cannot be adjudicated in constitutional jurisdiction. He, thus, prayed that the instant petition, being *mala fide*, vexatious and devoid of merit, be dismissed with costs.

5. Heard learned counsel for the parties at considerable length and perused the record with their able assistance. It appears that the controversy in the instant matter revolves around the legality and propriety of the registration of “Irrigation Employees Union, Rohri Division at Moro,” particularly with regard to the fulfilment of the mandatory requirement of one-fifth membership under the Sindh Industrial Relations Act, 2013, as well as the scope of constitutional jurisdiction in the presence of alleged alternate remedies. The record, including the impugned order, inquiry report, objections filed by the petitioners and the material placed on record by the contesting respondents, has been carefully examined in order to determine whether the impugned action suffers from any jurisdictional defect, illegality, or arbitrariness warranting interference by this Court in exercise of its constitutional jurisdiction.

6. It is an admitted position that the Irrigation Department is a constituent department of the Government of Sindh and its employees are appointed in connection with the affairs of the Province. Such employees, therefore, fall within the ambit of “civil servants” governed by The Civil Servant Act, 1973. The distinction between a civil servant and a workman is well settled in law; civil servants are regulated through statutory service laws and are amenable to the jurisdiction of Service Tribunals, whereas labour legislation applies to industrial and commercial establishments. This distinction goes to the root of jurisdiction and cannot be lightly ignored.

7. In this context, the entire premise of the present petition, as well as the claim of the petitioners themselves to operate as a trade union under labour laws, appears to be legally misconceived. The formation and functioning of trade unions comprising civil servants, within a Government department, is not recognized under the labour regime unless expressly provided by law. The petitioners, while challenging the legality of registration of another union, have themselves invoked a statutory framework which does not govern their own service structure. Such a position is inherently contradictory and reflects a fundamental misapprehension of law.

8. This Court is constrained to observe that the petitioners have approached this Court on a self-defeating footing. On one hand, they assert rights under labour law to challenge the registration of a rival union; on the other, they themselves do not qualify as “workmen” so as to invoke the provisions of the Sindh Industrial Relations Act, 2013. One cannot be permitted to take advantage of a statute while simultaneously falling outside its scope. The petitioners’ own status as a union of civil servants is legally questionable and this aspect substantially undermines the foundation of their claim.

9. Notwithstanding the above, even if the matter is examined on the touchstone of the impugned registration, it becomes evident that the competent authority failed to discharge

its statutory obligation in a lawful and reasoned manner. The requirement of one-fifth membership is not a mere numerical formality; it is a substantive condition requiring verification of eligibility of each member counted towards such threshold. Inclusion of ineligible persons, retired employees, or persons already affiliated with other unions strikes at the root of lawful registration.

10. The contention of the respondents that the petitioners have alternate remedy or that the certificate of registration is conclusive proof does not come to their rescue. Where the decision-making process itself is vitiated by failure to consider material objections and by lack of lawful inquiry, this Court, in exercise of constitutional jurisdiction, is fully competent to interfere so as to prevent miscarriage of justice.

11. The cumulative effect of the above discussion leads to two inescapable conclusions: *firstly*, that the petitioners have invoked an incorrect legal framework inasmuch as the employees of the Irrigation Department are civil servants and not workmen; and *secondly*, that even otherwise, the impugned registration suffers from procedural illegality, non-application of mind, and failure to undertake a lawful verification as required under the statute.

12. In such circumstances, while this Court disapproves the legal misconception on the part of the petitioners regarding their status, the illegality in the action of the competent authority cannot be allowed to stand merely on that account. The impugned registration, having been granted without proper inquiry and without a reasoned determination on material objections, cannot be sustained in law.

13. Consequently, for the foregoing reasons, the instant petition is **allowed**. The impugned registration/order is hereby set aside. The matter is remanded to the competent authority, i.e., Registrar of Trade Unions, to reconsider the application for registration afresh strictly in accordance with law, after affording

opportunity of hearing to all concerned parties and after undertaking a proper, transparent and reasoned inquiry into the eligibility of each member claimed towards the statutory requirement.

14. It is further directed that while undertaking such exercise, the competent authority shall also examine the legal status of the employees concerned in light of the applicable service laws, so as to determine whether the provisions of labour legislation are at all attracted to the establishment in question. A speaking order shall be passed dealing with all material objections raised by the parties.

15. Till such fresh determination, the impugned registration shall remain in abeyance. The competent authority shall conclude the exercise preferably within a period of sixty (60) days from receipt of this judgment.

JUDGE

Approved for reporting

A.C