

## ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.D-3939 of 2025

(Imtiaz Ahmed Siddiqui & others v Government of Sindh & others)

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| Date | Order with signature of Judge |
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| Mr. Justice Adnan-ul-Karim Memon |
| Mr. Justice Abdul Mobeen Lakho   |

Date of hearing and order:- 21.01.2026

Mr. Shariq Ahmed advocate for the petitioners.

Syed Arshad Hussain, advocate for Intervener.

Mr. Irfan Bashir Bhutta, advocate for the respondent/society

Mr. Shariq Mubashir AAG

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### **O R D E R**

**Adnan-ul-Karim Memon, J.** – The petitioners have filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer(s): -

- a. *Declare that the continued failure and inaction of Respondent No.2 (Registrar Cooperative Societies) in conducting the elections of the Managing Committee of the Respondent No.3, Latifi Cooperative Housing Society in accordance with the applicable laws and the bye-laws of the society is illegal, arbitrary, malafide and in violation of the petitioner's fundamental rights guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973;*
- b. *Direct the Respondent No.2 to immediately initiate and conclude the process for the conduct of free, fair, and transparent elections of the Managing Committee of the Latifi Cooperative Housing society i.e., Respondent No.3, strictly in accordance with law, within a time frame as may be fixed by this Court.*
- c. *Direct the Nazir of this Court to supervise the entire process of the election;*
- d. *Declare that the continued functioning and occupation of the office of Respondent No.3 by the Secretary/illegally functioning Managing Committee is unlawful and without lawful authority, and further direct the said Committee to cease forthwith from acting as the office bearers of the Society until valid elections are held;*
- e. *Restrain respondent No.3 or any person claiming under or through them from incurring any financial liabilities, executing contracts, or taking any major decisions, till such time as lawful elections are held;*
- f. *Grant any other relief which this Court may deem just and proper in the circumstances of the case; and*
- g. *Award costs of the petition.*

2. The Petitioners claim that they are bona fide members and residents of Latifi Cooperative Housing Society, Block-20, Gulistan-e-Johar, Karachi (“the Society”). However, they seek a writ of mandamus directing Respondent No.2, the Registrar Cooperative Housing Societies, Sindh, to conduct elections of the Managing Committee of the Society strictly in accordance with the Sindh Cooperative Housing Societies Act, 2020, the Rules framed thereunder, and the registered bye-laws of the Society. It is urged that under the Act and the bye-laws, the tenure of the Managing Committee is one year, and fresh elections are mandatory at each Annual General Meeting. The existing Managing Committee was elected in 2023 and has unlawfully continued in office well beyond its prescribed tenure. On complaints by members, Respondent No.2 took cognizance and, vide letter dated 24.10.2024, directed that elections be held. The Assistant Registrar was appointed, who issued notices dated 25.10.2024 and 07.11.2024 for the submission of documents required for elections. However, during this process, certain members filed Constitutional Petition No. D-6216 of 2024 concerning the bifurcation of the Society and challenged the election process. During proceedings in CP-D-6216/2024, this Court, vide order dated 22.01.2025, raised a specific query regarding elections, whereupon the Secretary of the Society undertook before this Court that elections would be conducted in February 2025 after issuing proper notice. Despite this clear undertaking and lapse of several months, no elections have been held, amounting to a violation of statutory obligations and disregard of an undertaking given to this Court. It is further submitted that five members of the Managing Committee have resigned, resulting in a loss of quorum under the bye-laws. Despite this, the remaining members continue to function illegally, incur expenses, and issue arbitrary demands, including notices imposing alleged “non-utilization fees,” reflecting mala fide conduct and misuse of authority.

3. Learned counsel for the petitioners submitted that under Section 12 read with Rule 9 of the Sindh Cooperative Housing Societies Rules, 2020, annual elections are mandatory, and Section 13(2) empowers the Registrar to intervene where a society fails to hold elections. Despite being fully informed, Respondent No.2 has failed to exercise this statutory power, leaving the Petitioners with no alternate efficacious remedy except to invoke the constitutional jurisdiction of this Court. Accordingly, the Petitioners seek declarations that the continued functioning of the present Managing Committee is unlawful, directions for immediate conduct of free and fair elections under Court supervision, and restraint against the existing committee from further functioning until a duly elected body assumes office.

4. The interveners opposing the petition rely on the disposal of CP-D-6216/2024 relating to bifurcation of the Society, arguing res judicata and abuse of process, whereas such bifurcation as directed by this Court. However, the said

proceedings were confined to the issue of division of the Society and did not dispense with or suspend the statutory obligation to hold elections. The issue of unlawful continuation of the Managing Committee remains distinct, continuing, and unadjudicated. They pray to dismiss the petition.

5. The respondents also objected to the maintainability of the petition, on the plea that this is misconceived, mala fide, and liable to dismissal. The Petitioners have approached this Hon'ble Court without clean hands and have suppressed material facts. The alleged undertaking regarding elections in CP No. D-6216/2024 is misleading; the Petitioners were parties to the said proceedings and, if aggrieved, ought to have pursued contempt therein. The present petition is therefore not maintainable. It is submitted that the Managing Committee has never fallen below the mandatory quorum and presently comprises six lawful members. Allegations of illegal continuation are denied. The challenge to non-utilization fees is dishonest, as the charges were unanimously approved by the Managing Committee, including some Petitioners, and several Petitioners have already deposited the same. Pursuant to CP No. D-6216/2024, this Court directed bifurcation of the Society under Section 15(2) of the Sindh Cooperative Societies Act, 2020. A Special General Meeting was duly held on 12.01.2025 under authorized supervision, wherein 65 out of 88 members (73.86%) voted in favour of division. The delay in issuance of the notification is solely attributable to Respondent No.2. The petition has been filed through a defective power of attorney. Petitioner No.1 is a defaulter of society dues and is facing criminal proceedings; other Petitioners are also defaulters and litigants against the Society. The petition is barred by law and liable to rejection under Order VII Rule 11 CPC. Under Section 73 of the Sindh Cooperative Societies Act, 2020, the matter falls within the exclusive jurisdiction of the Cooperative Court, and alternate statutory remedies are available. Respondent No.2 has already issued orders for the entire body elections on 24.10.2024; however, the process was halted due to court proceedings. In light of complaints regarding disputed SGM minutes, a fresh SGM has been directed, and an inquiry into non-utilization fees is pending before the competent authority. In view of the above, it is prayed that the present constitutional petition be dismissed with costs, with directions to Respondent No.2 to proceed strictly in accordance with the orders passed in CP-D-6216/2024.

6. We have heard the learned counsel for the parties and perused the material available on record with their assistance.

7. This Court vide order dated 22.01.2025 disposed of the petition with respect to elections. The Secretary of Latifi Cooperative Housing Society informed this Court that elections were expected to be held in February 2025 after issuance of proper advance notice, including newspaper publication. Regarding bifurcation of

the Society under Section 15(2) of the Sindh Cooperative Societies Act, 2020, it was stated that, pursuant to the Court's order dated 20.12.2024, a Special General Meeting was held on 12.01.2025 in the presence of an authorized representative of the Registrar, wherein more than a two-thirds majority approved the division of the Society. The Secretary confirmed the result and submitted the statement and meeting record, which were taken on record. The Society was directed to take steps to give effect to the decision of the Special General Meeting in accordance with the law. However, the petition was disposed of, with liberty to the petitioners in the aforesaid case to avail appropriate legal remedies in case of any prejudice caused by the action or inaction of the respondents.

8. We have been informed that the Special General Body Meeting of Latifi Cooperative Housing Society Limited was held on 12.01.2025 in compliance with the directions of this Court vide order dated 20.12.2024 passed in CP-D-6216 of 2024 (*Syed Muhammad Rehan and Others vs. Province of Sindh and Others*). The agenda was to consider the subdivision of M/s. Latifi Cooperative Housing Society Limited under Section 15(2) of the Sindh Cooperative Societies Act, 2020. The proposal for the subdivision of M/s. Latifi Cooperative Housing Society Limited was duly approved by a more than two-thirds majority of the members present and voting in the Special General Body Meeting.

9. From the foregoing facts and submissions, we have noticed that the core controversy in the present proceedings is not the bifurcation of Latifi Cooperative Housing Society which already stands conclusively dealt with in CP-D-6216 of 2024 but the independent, continuing, and statutory obligation to hold timely elections of the Managing Committee in accordance with the Sindh Cooperative Housing Societies Act, 2020, the Rules framed thereunder, and the registered bye-laws of the Society. The material on record *prima facie* establishes that the tenure of the Managing Committee elected in 2023 has long since expired and that annual elections are mandatory under Section 12 of the Act, read with Rule 9 of the Rules. The failure to hold elections, despite directions issued by the Registrar on 24.10.2024 and a categorical undertaking given before this Court on 22.01.2025, constitutes a clear violation of statutory duties and reflects disregard for an assurance given to the Court, as such election must be held in time without fail.

10. The plea of *res judicata* raised by the interveners is misconceived, as the earlier constitutional petition was confined to the issue of subdivision of the Society and did not adjudicate upon, suspend, or dilute the legal requirement to conduct elections. Likewise, objections relating to alternate remedies, alleged defects in the power of attorney, or disputes regarding non-utilization fees do not oust the constitutional jurisdiction of this Court where a public statutory authority has failed

to exercise its mandatory powers, and where the continued functioning of an elected body beyond its lawful tenure strikes at the very root of democratic governance of cooperative societies.

11. In these circumstances, the continued functioning of the existing Managing Committee, after expiry of its tenure and amidst serious disputes regarding quorum and resignations, cannot be sustained in law. Respondent No.2, being the statutory regulator, is duty-bound under Section 13(2) of the Act to ensure that elections are conducted expeditiously and in a transparent manner, just after complying with the previous court orders within one month. Any delay on account of collateral issues, including bifurcation proceedings, cannot justify the indefinite postponement of elections.

12. Accordingly, the case squarely warrants judicial intervention to protect the statutory and democratic rights of the members of the Society. Therefore, this court deems it proper to direct Respondent No.2 to immediately initiate and complete the process of free, fair, and transparent elections of the Managing Committee, strictly in accordance with law and the bye-laws, within a specified timeframe as discussed in the preceding paragraph, and the existing committee is refrained from taking any policy or financial decisions beyond routine administration until a duly elected body assumes charge. Liberty, as already observed earlier, shall remain available to the parties to avail appropriate remedies in respect of any grievances arising from bifurcation or allied issues, strictly in accordance with law.

13. This petition, along with all pending application(s), stand disposed of in the above terms.

JUDGE

JUDGE