

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-6329 of 2025
(Mumtaz Khan Tanoli versus Sindh Bar Council & others)

Date	Order with signature of Judge
------	-------------------------------

Date of hearing and order: 07.1.2026

Mr. Mumtaz Khan Tanoli, petitioner in person
 Mr. Abdul Jalil Zubedi, Assistant AG
 Mr. Rehman Korai, advocate for the respondent /KBA

ORDER

Adnan-ul-Karim Memon, J. Petitioner prayed to:

1. *Declare failure to conduct elections within the prescribed time as illegal and without authority.*
2. *Declare the appointment of the second Election Commissioner as void.*
3. *Declare actions taken pursuant thereto as void.*
4. *Hold that the KBA Cabinet has lost mandate after 31.12.2025.*
5. *Suspend the functioning of the current Cabinet.*
6. *Restrict the Cabinet from announcing/holding elections or making appointments.*
7. *Direct SBC to take over management of KBA under Bye-Law 17.*
8. *Order the conduct of free, fair elections within one month.*
9. *Order a fresh, lawful voters' list and scrutiny.*
10. *Declare that SBC members cannot contest or hold office in Bar Associations during tenure.*
11. *Restrict the current Cabinet from policy, financial, or prejudicial decisions.*
12. *Grant any other appropriate relief deemed just and proper.*

2. The case of the petitioner is that he is a practicing Advocate of this Court and a candidate for the office of General Secretary of the Karachi Bar Association (KBA). He submitted that KBA elections were scheduled for 13.12.2025 but were postponed to 18.12.2025 pursuant to the Pakistan Bar Council notification dated 08.12.2025. On 18.12.2025, polling could not be held due to illness of the notified Election Commissioner. No lawful steps were taken thereafter by the KBA Cabinet to ensure timely polling. On 20.12.2025, another Election Commissioner was appointed and polling was announced for 23.12.2025, although the earlier Election Commissioner had not been de-notified, rendering the appointment illegal. Subsequently, after meetings with candidates, 17.01.2026 was announced

as the new date, which was later politicized, resulting in the resignation of the Election Commissioner. He added that under Rule 7 of the Bar Association (Recognition) Rules, 2017, elections must be held on the second Saturday of December, which has not been complied with. Mandatory provisions of Bye-Law 6 relating to the timely preparation, display, and authentication of the voters' list were violated. There is also serious apprehension of violation of Bye-Law 7 relating to the six-month membership requirement. However, two contesting candidates are members of the Sindh Bar Council (SBC), creating a conflict of interest between the regulator and the regulated body. The Petitioner filed a complaint on 22.12.2025 requesting the SBC to invoke Bye-Law 17 and take over the management of KBA. However, no effective action has yet been taken despite the expiry of tenure on 31.12.2025. Continuation of the present KBA Cabinet beyond its term is unlawful and amounts to usurpation of authority.

3. The petitioner, present in person, submits that the mandatory election schedule has been violated and that the second Election Commissioner was illegally appointed without de-notification of the first. Elections were not held despite available dates, demonstrating mala fide delay. The voters' list was neither duly prepared, displayed, nor authenticated in accordance with law and there is serious apprehension of ineligible voters. He further submits that the dual role of SBC members contesting KBA elections amounts to a conflict of interest, that SBC failed to exercise its powers under Bye-Law 17, and that continuation of the present Cabinet beyond its tenure is unconstitutional and void.

4. Learned counsel for the respondent without filing comments has questioned the maintainability of the present petition in terms of decisions of the Supreme Court and this Court and has prayed for its dismissal. The learned AAG has adopted the same stance.

5. The petitioner controverted the submissions of the respondents and submitted that the instant petition is maintainable under Article 199 of the Constitution because the respondents perform public functions affecting advocates and the administration of justice. Although autonomous, the Karachi Bar Association and Sindh Bar Council exercise statutory powers under the Legal Practitioners and Bar Councils Act, 1973, including regulation of elections, electoral rolls, supervision, and disciplinary control. Since these functions directly impact Courts, access to justice, and advocates' rights, constitutional jurisdiction is attracted. He submits that autonomy does not bar maintainability; the nature of functions and breach of statutory duties is decisive. Where statutory obligations are violated and public law rights affected, writ jurisdiction lies. The respondents allegedly failed to fulfill duties under Rule 7 of the 2017 Recognition Rules and Bye-Law 17, leading to unfair elections and illegal continuance in office,

amounting to a public law wrong. The challenge concerns breach of express statutory provisions and fundamental rights under Articles 17 and 25. Therefore, the petition is competent and falls within Article 199 of the Constitution.

6. We have heard the petitioner who is present in person and learned AAG assisted by the counsel for the respondents on the maintainability of the petition and perused the material available on record.

7. The petitioner's claim of maintainability under Article 199 of the constitution is misconceived. Merely performing functions that incidentally affect a large number of advocates or the administration of justice does not, by itself, transform every dispute into a matter of public law, in terms of law laid down by the Supreme Court in its various pronouncements.

8. The Karachi Bar Association and Sindh Bar Council are autonomous representative bodies of advocates, primarily engaged in managing their internal affairs, including elections and membership. These are matters of self-regulation within a professional association rather than core sovereign or governmental functions.

9. It is well-settled that not every statutory body is amenable to constitutional jurisdiction for every internal dispute. Article 199 of the Constitution is attracted only where there is exercise of executive authority, performance of governmental functions, or violation of enforceable fundamental rights. Election disputes within voluntary associations are ordinarily governed by the statutory framework and domestic remedies provided therein. Availability of internal grievance mechanisms and election tribunals indicates legislative intent that such matters be resolved within the statutory scheme, not through writ jurisdiction.

10. The alleged breaches of Rule 7 of the 2017 Recognition Rules and Bye-Law 17, even if assumed, pertain to procedural aspects of bar association elections and recognition essentially private rights of office bearers and members not public law rights of the community at large. The petitioner has failed to demonstrate violation of any individual fundamental right under Articles 17 or 25, beyond a generalized assertion. Claims of "illegal continuance in office" or "unfair elections" are election disputes for which specific remedies exist under the relevant statutes; as such Constitution petition cannot be used as a substitute for those specialized forums.

11. Further, supervisory and disciplinary powers over advocates are regulatory in nature but do not convert every administrative irregularity into a constitutional issue. Accordingly, the dispute raised in the present petition is essentially intra-association and election-related, involving contested facts and requiring evidence matters not suitable for writ jurisdiction. The petitioner has alternative adequate

remedies under the Legal Practitioners and Bar Councils Act, 1973, and relevant rules.

12. In view of the above discussion, as well as the law laid down by the Supreme Court in Mirza Muhamad Nazakat Baig v. Federation of Pakistan through Secretary Ministry of Law and Justice, Islamabad and another (2020 SCMR 631), and Syed Iqbal Hussain Shah Gillani v. Pakistan Bar Council through Secretary, Supreme Court Bar Building, Islamabad and others (2021 SCMR 425), it is clear that Bar Councils and Bar Associations are autonomous statutory/self-governing bodies which do not perform functions in connection with the affairs of the Federation, Provinces or any local authority.

13. Primarily, they are not amenable to the constitutional jurisdiction of this Court under Article 199 of the Constitution. The rules framed by such bodies are non-statutory in nature and any alleged violation thereof does not attract writ jurisdiction. Since the KBA/respondent bodies are not persons performing functions in connection with the affairs of the State, and no statutory violation of enforceable fundamental rights has been demonstrated. For these reasons, the petition is not maintainable under Article 199 of the Constitution.

14. Without entering into the merits of the case, and while leaving the petitioner at liberty to challenge the continuation in office of the KBA office bearers before the competent forum, this petition is accordingly dismissed. The pending application(s) are also dismissed, with no order as to costs.

JUDGE

JUDGE