

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-3256 / 2025

(Muhammad Imran & Others Vs. Province of Sindh & Others)

C. P. NO. D-2798 / 2025

(Raja Mazhar Hussain Vs. Province of Sindh & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order : 10.08.2026.

Mr. Ahmed Ali Hussain, Advocate for Petitioner
in C. P. No. D-3256/2025.

Mr. Muhammad Nazir Tanoli, Advocate for Petitioner
in C. P. No. D-2798/2025.

Mr. Abdul Jalil Zubedi, Assistant Advocate General Sindh.

Ms. Zubaida K. Jamali, Advocate for Respondent No. 6.

Mr. Naveed Ahmed Mari, Administrator.

Adnan-ul-Karim Memon, J. The Petitioners have filed these Constitutional Petition under Article 199 of the Constitution of Islamic Republic of Pakistan seeking the following reliefs: -

- “I. Declare that the actions of Respondents No. 2 and 3, particularly the issuance of the decision declaring the elections of Respondent No. 4 held on 31.05.2025 as null and void, and the appointment of Respondent No. 3 as Administrator, are illegal, mala fide, without lawful authority, and of no legal effect;
- II. Declare that the Petitioners, having been duly elected through the election held on 31.05.2025 in accordance with the approved bye-laws of Respondent No. 4, are lawfully entitled to assume their respective offices and perform their functions as elected representatives of the Association;
- III. Declare that the Letter dated: 24.6.2025 whereby the election results have been declared null and void is illegal, arbitrary and of no legal effect and the same is liable to be set aside;
- IV. Declare that the Letter dated: 30.6.2025 whereby the administrator has been appointed is illegal, arbitrary and of no legal effect and consequently the same is liable to be set aside;
- V. Declare that Respondents No. 2 and 3 have no lawful authority to interfere in the internal affairs or management of Respondent No. 4, except strictly in accordance with the law and after observance of due process as envisaged under the Societies Registration Act, 1860;
- VI. Declare that the letter dated 08.07.2025 issued by Respondent No. 3, purporting to announce fresh elections of Respondent No. 4, is illegal, ultra vires the bye-laws of the Association, and devoid of lawful authority and consequently the same is liable to be set aside;

- VII. Declare that the management of Respondent No. 4, pursuant to its bye-laws, vests with the duly elected representatives until replaced through a lawful and valid election process conducted in accordance with the bye-laws;
- VIII. Declare that any interference by Respondent No. 6 being unsuccessful candidate and Respondent No.7 being the chairperson of unsuccessful candidate's group, in the affairs of the Association or its election process, is unlawful, politically motivated, and violative of the democratic rights of the Petitioners;
- IX. Declare that the Petitioners are entitled to the protection of their fundamental rights under Articles 4, 10-A, 17, and 25 of the Constitution, including their right to due process, fair treatment, and to hold office pursuant to a valid election.”

2. The Petitioners, who claim to have been elected to various offices of the Defense & Clifton Association of Real Estate Agents (Respondent No.4) in the elections held on 31.05.2025, have challenged the actions of Respondents Nos.2 and 3 whereby the said elections were declared null and void, Respondent No.3 was appointed as Administrator of the Association under Section 16-A of the Societies Registration Act, 1860, and fresh elections were subsequently announced.

3. The counsel for Petitioners contend that the election process was conducted strictly in accordance with the approved Memorandum and Bye-Laws of the Association. According to them, the 14th Annual General Body Meeting held on 26.04.2025 validly appointed Respondent No.5 as Election Commissioner, who thereafter issued the election schedule, code of conduct and voting procedure. He adds that candidate lists were published, no objections were raised at the relevant stage, and the elections were conducted on 31.05.2025. The Petitioners claim that they secured victory in their respective constituencies/posts. It is their case that, before the official results could be announced, Respondent No.3 was appointed as Enquiry Officer on 03.06.2025 on the basis of complaints made by the rival group. The Election Commissioner was restrained from announcing the final results by the order of this Court; he adds that despite this, after the prescribed complaint process, the Election Commissioner announced the official results on 21.06.2025. Respondent No.3 thereafter declared the elections null and void on 24.06.2025 and Respondent No.2 appointed him Administrator on 30.06.2025. The counsel for Petitioners assert that the elected Managing Committee was entitled under the Bye-Laws to continue until a new management was lawfully constituted. They further contend that Respondent No.3, being the Enquiry Officer, could not lawfully assume the role of Administrator and thereafter announce fresh elections without following the procedure prescribed by the Bye-Laws, particularly appointment of an Election Commissioner by the General Body. It is further alleged that the impugned actions were taken without a proper inquiry or effective opportunity of hearing to the elected candidates and

were actuated by mala fide and collusion with Respondent No.6, the unsuccessful presidential candidate, and Respondent No.7, who headed his group. The Petitioners also rely upon previous litigation involving Respondent No.6 and the elected presidential candidate to demonstrate alleged personal animosity. On these grounds, the Petitioners' counsel contend that the impugned actions are without lawful authority, arbitrary and violative of the principles of natural justice and their constitutional rights under Articles 4, 10-A, 17 and 25 of the Constitution. They seek setting aside of the orders declaring the election void, appointment of the Administrator and announcement of fresh elections, besides recognition of their entitlement to assume their respective elected offices.

4. Respondent No.3, the Administrator has put appearance and opposed the contempt proceedings in terms of status quo order and maintains that he has acted throughout in his official capacity pursuant to lawful authority conferred upon him under the Societies Registration Act, 1860. He denies having wilfully or deliberately violated any order of this Court. It is submitted that the proposed constitution of an Ad Hoc Committee was merely an administrative measure intended to address the serious financial and operational difficulties being faced by the Association, including its inability to pay salaries to employees. According to Respondent No.3, the proposal neither constituted a new elected body nor altered the pending election dispute, inducted new members, changed the voters' list or otherwise affected the rights of the Petitioners. Respondent No.3 admits knowledge of the interim orders passed by this Court, including the order directing maintenance of status quo, but contends that mere knowledge does not constitute contempt. According to him, the essential ingredient of civil contempt deliberate and willful disobedience is completely absent. He undertakes to abide by all directions of this Court and seeks dismissal of the contempt application or, in the alternative, clarification regarding the permissible scope of his administrative functions during pendency of the proceedings.

5. Learned counsel for Respondent No.6, has opposed the constitutional petition as being misconceived, mala fide and an abuse of the process of law. She contends that the Petitioners belong to the same group whose candidate, Mr. Raja Mazhar Hussain, had already filed Constitutional Petition No. D-2798 of 2025 concerning substantially similar issues and that the present proceedings constitute a continuation of that litigation and an attempt at forum shopping. Counsel for Respondent No.6 disputes the validity of the elections held on 31.05.2025 and maintains that serious irregularities were brought to the notice of the competent authority before the final results were announced. She alleges that several candidates did not fulfill the eligibility requirements prescribed by the Association's Bye-Laws, including requirements relating to valid NTN, operational real estate offices and payment of membership dues. It is specifically

alleged that certain candidates used fake, inactive or otherwise questionable NTN's, that several candidates lacked valid business offices, and that some candidates were engaged in prohibited dual businesses. She further alleges that 29 new members were inducted only two days before the election without proper scrutiny or publication, thereby affecting the integrity of the voters' list. She also alleges that membership dues of certain candidates were paid from Association funds. According to Respondent No.6, complaints regarding these irregularities were filed on 03.06.2025, whereupon the competent authority lawfully initiated an inquiry and appointed Respondent No.3 as Enquiry Officer. She maintains that the subsequent appointment of Respondent No.3 as Administrator under Section 16-A of the Societies Registration Act, 1860 was justified after prima facie irregularities, corruption and mismanagement surfaced. She further contends that the Election Commissioner's announcement of results on 21.06.2025 was contrary to the direction dated 03.06.2025 restraining finalization of the results. Consequently, the declaration of the election as void, takeover by the Administrator and announcement of fresh elections are asserted to be lawful and within the authority of the competent respondents. She denies allegations of collusion or mala fide and maintains that these objections were raised in his capacity as a candidate and member of the Association. She also disputes the Petitioners' claim of violation of Articles 4, 10-A, 17 and 25 of the Constitution, asserting that the Petitioners have no vested right to assume office where the validity of the election itself is under lawful investigation. She, therefore, seeks dismissal of the constitutional petitions and stay application, upholding of the appointment of Respondent No.3 as Administrator, and permission for a fresh, fair and transparent election to be conducted in accordance with law.

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

7. The controversy essentially revolves around the validity of the elections of Respondent No.4 held on 31.05.2025, the authority of Respondents No.2 and 3 to declare the said elections null and void, the subsequent appointment of Respondent No.3 as Administrator under Section 16-A of the Societies Registration Act, 1860, and the announcement of fresh elections.

8. At the outset, it is necessary to observe that Section 16-A of the Societies Registration Act, 1860 empowers the Provincial Government, notwithstanding anything contained in the memorandum, rules or regulations of a society, to supersede its governing body where, after such inquiry as may be necessary, the statutory conditions contemplated by the provision are found to exist. The power is, however, not unbridled. The provision itself requires an inquiry before formation of the requisite opinion and, in its application to Sindh, expressly

incorporates the requirement that the society concerned be afforded an opportunity of being heard before its governing body is superseded.

9. The record before us demonstrates that serious allegations were indeed raised concerning the election process, including alleged irregularities in the voters' list, induction of members shortly before the election, questionable NTN documents, eligibility of candidates, payment of membership dues and compliance with the Bye-Laws. Such allegations cannot be brushed aside merely because the Petitioners claim to have secured majority in the election. Conversely, mere allegations or complaints, by themselves, cannot constitute a lawful adjudication of electoral irregularity or furnish an unfettered basis for displacing an elected body without following the statutory procedure.

10. The material placed before us further shows that an Enquiry Officer was appointed on 03.06.2025 and that the Election Commissioner was restrained from announcing the final results. The Election Commissioner nevertheless announced the results on 21.06.2025, whereafter the same were declared null and void by Respondent No.3 on 24.06.2025. Subsequently, Respondent No.3 was appointed Administrator on 30.06.2025. What is conspicuously absent from the record, however, is a clear and reasoned finding, following a concluded inquiry and an effective opportunity of hearing to the affected/elected office-bearers, establishing the statutory conditions which alone could justify supersession of the governing body under Section 16-A.

11. The requirement of hearing in the present case assumes particular significance because the impugned action did not merely regulate the affairs of the Association; it had the direct effect of nullifying an election already conducted, depriving the successful candidates of the benefit of that election and replacing the existing/elected management with an Administrator. Such an order carries serious civil consequences and, therefore, cannot ordinarily be sustained on the basis of undisclosed complaints, prima facie allegations or an administrative opinion unsupported by a properly conducted inquiry.

12. We are also unable to accept the proposition that Respondent No.3, merely by virtue of having been appointed Enquiry Officer, could himself determine the validity of the election, annul the electoral result and thereafter assume control of the Association without demonstrating compliance with the statutory safeguards governing supersession. The exercise of statutory power must remain traceable to the conditions prescribed by the statute and cannot be enlarged merely by reference to administrative necessity.

13. At the same time, we are not persuaded to accept the Petitioners' contention that the election of 31.05.2025 must, at this stage, be declared

conclusively valid and that the Petitioners must straightaway be installed in their respective offices. The allegations raised by Respondent No.6 concerning the eligibility of candidates, voters, alleged induction of 29 members immediately before the election and other electoral irregularities constitute disputed questions requiring determination on the basis of the relevant record. This Court, in its constitutional jurisdiction, could not undertake a fact-finding exercise concerning disputed electoral matters where the competent statutory authority is required to examine the matter in the first instance.

14. The Petitioners' reliance upon the Bye-Laws, particularly the provision that the Managing Committee continues until a new body is duly formed, also cannot by itself defeat a lawful exercise of statutory power under Section 16-A. The statute expressly operates notwithstanding anything contained in the memorandum, rules or regulations of the society. However, the converse is equally true: the statutory power must itself be exercised in the manner prescribed by the statute. Thus, the Bye-Laws cannot oust the statutory jurisdiction of the competent authority, but the statutory authority cannot bypass the mandatory safeguards merely by invoking its supervisory jurisdiction.

15. We are therefore of the considered view that the real defect in the impugned action is not the existence of regulatory power in the competent authority, but the manner in which such power appears to have been exercised. Where the statute contemplates inquiry and hearing before supersession, the authority must demonstrate that the requisite inquiry was undertaken, the material relied upon was made available to the affected persons to the extent required by law, an effective opportunity of hearing was afforded, and thereafter a reasoned opinion was formed on the statutory grounds.

16. The impugned declaration dated 24.06.2025, the order dated 30.06.2025 appointing Respondent No.3 as Administrator and the consequential decision dated 08.07.2025 for holding fresh elections, therefore, cannot be sustained in their present form if they were issued without completion of the statutory process contemplated by Section 16-A. The absence of a properly recorded determination on the statutory conditions and the failure to demonstrate meaningful opportunity of hearing render the impugned exercise vulnerable on the grounds of jurisdictional error, procedural illegality and violation of natural justice.

17. As regards the allegation of mala fide and collusion between Respondents No.2, 3, 6 and 7, we find that such allegations have been made by the Petitioners, while Respondent No.6 has emphatically denied the same. The material presently available is insufficient to record a definitive finding of mala fide against the respondents. Previous litigation between certain individuals may furnish

background, but cannot, by itself, establish mala fide in the present proceedings. Such allegations, therefore, need not be determined for disposal of the present petition.

18. Likewise, the competing allegations regarding fake or inactive NTN, absence of operational offices, dual businesses, payment of membership dues from Association funds and induction of new members are matters which require verification from the original record, membership register, voters' list, NTN documentation, accounts and other relevant material. A constitutional petition is not an appropriate forum for recording evidence and conclusively determining such disputed factual questions in the first instance.

19. Consequently, we are of the view that the appropriate course, balancing the competing rights and the statutory responsibilities of the authorities, is to set aside the impugned orders only to the extent that they have been passed without demonstrable compliance with the mandatory procedural requirements of Section 16-A and to remit the matter to the competent statutory authority for a fresh and fair determination within one month.

20. The competent authority shall, after providing notice and meaningful opportunity of hearing to all affected stakeholders, including the Petitioners, the Election Commissioner, Respondent No.6 and other concerned members, examine the complaints and the entire electoral record and determine, through a reasoned and speaking order, whether the statutory conditions for supersession under Section 16-A are satisfied. The inquiry shall specifically address the allegations relating to the voters' list, induction of 29 members, eligibility of candidates, NTN documents, membership dues and any other alleged violation of the registered Bye-Laws. The aforesaid exercise shall be undertaken within two months.

21. Until such determination is made, no party shall claim an automatic right to assume office merely on the basis of the disputed election results, nor shall the Administrator undertake any step intended to alter the disputed electoral status, induct new members, materially alter the voters' list or conduct a fresh election except with the express permission of the competent authority/Court in accordance with law.

22. We are conscious that Respondent No.3 has raised the issue of financial difficulties and inability of the Association to meet its operational liabilities and pay salaries to its employees. Such circumstances may legitimately require interim administrative measures for preservation of the Association's assets and day-to-day functioning; however, financial necessity cannot be used as a

substitute for the statutory process required for supersession of an elected governing body.

23. In view of the foregoing discussion, the Constitutional Petition is disposed of to the extent that the impugned decision dated 24.06.2025 declaring the election null and void, the order dated 30.06.2025 appointing Respondent No.3 as Administrator, and the consequential letter dated 08.07.2025 announcing fresh elections are set aside, with direction to the competent authority to undertake a fresh inquiry strictly in accordance with Section 16-A of the Societies Registration Act, 1860, the registered Bye-Laws of Respondent No.4 and the principles of natural justice, and to pass a reasoned and speaking order within a period of 45 days from receipt of this order.

24. It is clarified that we have not expressed any final opinion on the validity or otherwise of the election held on 31.05.2025, the eligibility of any candidate or voter, or the allegations of financial or electoral irregularities. All such questions shall be determined by the competent authority independently and strictly on the basis of the record and evidence produced before it.

25. The Administrator, if required for the limited purpose of preserving the assets, records and day-to-day affairs of the Association, may continue only to the extent lawfully authorized and subject to the further orders of the competent authority. He shall not alter the membership register, voters' list, electoral status or initiate a fresh election process until completion of the aforesaid exercise.

26. The petitions are accordingly disposed of in the above terms. Pending applications, if any, stand disposed of. There shall be no order as to costs.

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