ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-1255 of 2026
(Mehran Labour Federation & another versus Province of Sindh & others)

Date	Order with signature of Judge

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing: 24.8.2026

Mr. Muhammad Nishat Warsi, Advocate for petitioners.
Mr. Abrar Raza, Advocate for the respondents.
Mr. Abdul Jalil Zubedi, AAG.

ORDER

Adnan-ul-Karim Memon, J. Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

a) Declare that the Sindh Employees' Security Institution Act of 2016 lacks the provision regarding the method of appointment/nomination/ selection of 'Representative of the workers';

b) Declare that, according to the definition of 'establishment ', the workers employed by the Establishments can only be nominated as 'Representative of Workers';

c) Set aside the notification dated 02.08.2023;

d) Direct the official respondents to nominate the workers' representative in accordance with the Act;

e) Direct the official respondents to act in accordance with the provisions of the Act of 2016 in its letter and spirit and to implement various provisions of the Act;

f) Direct the respondents to comply with the proviso to clause (d) of Section-5 of the Act of 2016;

g) Suspend the operation of notification dated 02.08.2023 and restrain the private respondents-5 to 8 from performing their functions as per the notification dated 02.08.2023 till final disposal of this petition, as per attached application;

2. Learned counsel for the petitioners contended that the notification dated 02.08.2023 appointing workers' representatives to the Governing Body of SESSI was issued in violation of Section 5 of the Sindh Employees' Social Security Act, 2016. He submitted that respondents No.5 to 8 were not legally qualified to represent the workers, as some were not employees, while others had retired or crossed the prescribed age limit. He further argued that the Act does not provide a transparent mechanism for nomination/selection of workers' representatives and that no consultation, advertisement or opportunity was given to registered labour federations. According to learned counsel, the impugned appointments were therefore based on a pick-and-choose policy and mala fide considerations. He also alleged misuse of workers' funds and referred to the deteriorated condition of SESSI hospitals and other welfare schemes, including distribution of E-Bikes, contending that the process violated the fundamental rights of workers and required judicial intervention.

3. Conversely, learned counsel for the respondents submitted that the impugned notification dated 02.08.2023 was issued for a fixed statutory term of three years, which expired on 01.08.2026; hence, the petition has become infructuous. He further contended that after expiry of the notification, the concerned persons ceased to have any legal authority to function as members without a fresh notification under Section 5(1) of the Act. On merits, he submitted that the petitioner had misconstrued Section 2(26) relating to the definition of a "secured person", as SESSI has a large number of secured persons and the workers' representatives are nominated from recognized labour organizations/unions. He maintained that the appointments were made in accordance with the law and with approval of the competent authority.

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

5. Under the Sindh Employees' Social Security Act, 2016, a "secured person" means a person in respect of whom contributions are or were payable under the Act. The Act extends social-security protection to such employees and their dependents by providing benefits in cases of sickness, maternity, employment injury, disablement and death. The employer is generally required to pay the prescribed contribution in respect of every secured employee, and even where the employer defaults in payment, a secured person who has not connived at such default continues to enjoy the same rights and benefits under the Act.

6. For representation of secured persons, section 5(1)(d) provides that the Governing Body of the Employees' Social Security Institution shall include three persons representing secured persons. These representatives are to be selected from a list of names submitted in the prescribed manner by organizations of employees recognized by the Government under section 5(2). Thus, the Act ensures institutional representation of secured employees in the Governing Body, enabling them to participate in matters concerning the administration and functioning of the Social Security Institution. Each member of the Governing Body has one vote, while the Chairman has a casting vote in case of equality. The representatives of secured persons hold office for three years, subject to the other provisions of the Act.

7. The principal controversy relates to the manner in which the representatives of secured persons are to be nominated to the Governing Body of the Sindh Employees' Social Security Institution (SESSI). Section 5(1)(d) of the Act specifically provides for three persons representing secured persons, while section 5(2) contemplates their selection from a list of names submitted, in the prescribed manner, by organizations of employees recognized by the

Government. The statutory scheme, therefore, does not leave the representation entirely to the unfettered discretion of the authorities; rather, the nomination has to remain within the framework and purpose of the Act.

8. The expression “secured person” is also of significance. Under the Act, it denotes a person in respect of whom contributions are or were payable. The object of the legislation is to provide social-security protection to employees and their dependents and to secure their participation, through lawful representation, in the administration of the Institution. Consequently, while considering future nominations under section 5, the competent authority is required to ensure that the persons nominated genuinely fall within the class of persons contemplated by the statutory scheme and that the nominations are received and processed in the manner prescribed by the Act and the applicable rules. Mere nomination by an authority, without conformity with the statutory requirements, cannot confer a qualification which the statute itself does not recognize.

9. At the same time, the contention that only an individual who is, on the date of nomination, personally employed in a particular “establishment” can, in every circumstance, represent secured persons cannot be accepted in the abstract. Section 5(1)(d), read with section 5(2), has to be construed as a whole. The decisive requirement is that the nominee must be eligible to represent the class of secured persons in accordance with the statutory scheme and must be nominated through the recognized employees’ organizations in the manner prescribed. The definition of “secured person” cannot be isolated from the specific mechanism provided in section 5 for constitution of the Governing Body.

10. We also find considerable force in the submission of the respondents that the impugned notification dated 02.08.2023 was issued for a period of three years. The said period expired on 01.08.2026. Consequently, as of the date of consideration of this petition, the persons appointed through the impugned notification no longer possess any authority to continue as members by virtue of that notification. The notification, therefore, has exhausted its legal life and there remains no effective relief which can now be granted by setting aside the said notification or by restraining the nominated members from functioning thereunder. The challenge to the notification has, thus, become infructuous to that extent.

11. However, the expiry of the impugned notification does not mean that the statutory questions raised by the petitioners are wholly devoid of legal significance. Since the Governing Body is required to be constituted afresh upon expiry of the tenure, and the same statutory provisions will govern future nominations, it is necessary to observe that the competent authority, while making

any fresh nomination under section 5, shall act strictly in accordance with the Act and the rules made thereunder. The authority shall, in particular, ensure that the nominations are made through the mechanism contemplated by section 5(2), that the recognized employees' organizations are dealt with in accordance with law, and that the nominees satisfy the statutory requirements applicable to representatives of secured persons. Any future notification issued in disregard of the mandatory provisions of the Act shall, of course, remain open to challenge in appropriate proceedings.

12. The allegations regarding alleged misuse or misapplication of workers' funds, deterioration of SESSI hospitals and welfare facilities, or distribution of E-Bikes, though serious in nature, cannot by themselves invalidate the impugned notification in the absence of specific material establishing a direct statutory or legal violation attributable to the nomination of the concerned members. Such matters, if independently supported by evidence, may be examined by the competent statutory or administrative forum in accordance with law, but they do not furnish a sufficient basis for granting the reliefs sought in the present petition.

13. In view of the foregoing discussion, the prayer for setting aside the notification dated 02.08.2023 and for restraining respondents No.5 to 8 from functioning thereunder has become infructuous because the statutory tenure of the said notification expired on 01.08.2026. No effective order can now be passed in respect of an appointment which has already come to an end. Nevertheless, for the future, the respondents are expected and directed to strictly adhere to the provisions of section 5 of the Sindh Employees' Social Security Act, 2016 while constituting the Governing Body and nominating representatives of secured persons, without acting arbitrarily or contrary to the statutory procedure.

14. Subject to the above observations, this petition, having become infructuous by efflux of the statutory tenure of the impugned notification, is accordingly disposed of. There shall be no order as to costs.

JUDGE

JUDGE