

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-1773 of 2024
(Makli Co-operative Society Limited & others v Province of Sindh & others)

Order with signature of Judge

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:-29.01.2026

Mr. Hanif Faisal Alam advocate for the petitioners.
Mr. Abdul Jalil Zubedi AAG.

ORDER

Adnan-ul-Karim Memon, J.- Through the instant constitutional petition, petitioners have filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer:-

- a. Declare that the order No. RCS/KYC/2024 dated 02.04.2024 (Impugned order) is arbitrary, without jurisdiction, and illegal, therefore liable to be set aside.*
- b. Declare that the Show Cause Notice No. RCS/E/135/2025 (Impugned SCN) is arbitrary, devoid of any reason, and illegal, therefore liable to be set aside.*

2. The present petition arises out of a mala fide, arbitrary, and wholly without-jurisdiction attempt by Respondent No.2 to illegally take over the affairs of Petitioner No.1, a duly registered housing co-operative society. It appears that the Petitioners' case is twofold, firstly, that Respondent No.2, without issuing any prior notice or affording any hearing, passed Order No. RCS/KYC/458/2024 dated 02.04.2024 purportedly under Section 61(1)(vi) of the Sindh Co-operative Societies Act, 2020, directing Respondents No.4 and 5 to run the day-to-day affairs of the Society, even though Section 61 confers no such power; and secondly, that on the very same day Respondent No.2 issued Show Cause Notice No. RCS/E/135/2024 under Section 59(1) of the Act, ostensibly to provide an opportunity of hearing to Petitioner No.5, whereas in reality the managing committee (Petitioners No.2 to 6) stood already removed through the impugned order, rendering the show-cause notice a mere eyewash. It is submitted that Petitioner No.1 is a lawfully registered housing co-operative society, while Petitioners No.2 to 6 are its duly elected managing committee, elected in the year 2022 through elections conducted under the supervision of the Nazir of this Court. It is submitted that previously, in 2020, a similar illegal attempt to take over the Society was resisted through constitutional litigation, which culminated in court-supervised elections and issuance of a notification dated 21.04.2022, followed by lawful handing over of charge to the Petitioners. It further submitted that since assuming office, the Petitioners have discharged their duties honestly and without complaint. In fact, to uphold democratic norms, the managing committee itself initiated the process for fresh elections by issuing a letter dated 21.02.2024 to the Cooperative Department, proposing elections later in 2024. Instead of

facilitating this lawful process, Respondent No.2, acting with mala fide intent, issued the impugned show-cause notice, passed the impugned order, and also issued Warrant No. RCS/KYC/460/2024 on the same day, authorizing a vague and roving inquiry without specifying any document or affording any opportunity as mandated under Section 4(2) of the Act. It is emphasized that immediately upon service of the impugned actions, the Petitioners submitted a reply to the show-cause notice; however, even before consideration thereof, Respondents No.4 and 5 attempted to forcibly occupy the Society's office and threatened to take over its affairs, demonstrating the predetermined and arbitrary nature of the impugned proceedings. It is further added by the counsel for the petitioner that the impugned order is patently illegal, as removal of office-bearers can only be carried out in strict compliance with Section 59 of the Act, after inquiry and hearing, and cannot be achieved indirectly through Section 61. Likewise, the impugned warrant is without a lawful basis, issued on the erroneous premise of handing over records to a so-called in-charge committee, which itself has no legal existence. The issuance of the show-cause notice, warrant, and takeover order on the same day, without reference to any specific allegation, conclusively establishes mala fide, abuse of authority, and a fishing and roving inquiry for extraneous purposes. It is urged by the counsel that the impugned actions are violative of the Sindh Co-operative Societies Act, 2020, settled principles of law, and the fundamental rights guaranteed under Articles 4, 8, 10-A, 18, and 24 of the Constitution of the Islamic Republic of Pakistan, 1973. The petitioners pray that the impugned order dated 02.04.2024 and the show-cause notice be declared illegal, without jurisdiction, and may be set aside, with such further relief as deemed just and proper.

3. The plea advanced by the learned AAG that the impugned actions were taken in the interest of transparency or good governance is nothing but a bald assertion, unsupported by any complaint, inquiry report, or specific allegation against the Petitioners. He submitted that the managing committee had itself initiated the process for fresh elections well before the impugned actions, which fact alone demolishes any insinuation of maladministration or reluctance to hold elections. He prayed that the neutral administrator be appointed to hold the subject election.

4. In view of the foregoing discussion, it is held that the impugned Order No. RCS/KYC/458/2024 dated 02.04.2024 and Show Cause Notice No. RCS/E/135/2024 cannot be sustained. However, to ensure transparency, fairness, and smooth conduct of the electoral process of Petitioner No.1, and considering the submissions of the learned AAG as well as the consent expressed by the learned counsel for the Petitioners, this Court deems it appropriate to appoint a neutral and independent person to supervise and conduct the elections of the Society.

5. Accordingly, Mr. Justice (Retd.) Nadeem Azhar Siddique is hereby appointed as Administrator/Election Officer of Petitioner No.1 with the mandate to conduct and

complete the elections of the managing committee strictly in accordance with the Sindh Co-operative Societies Act, 2020, the Rules framed thereunder, and the bye-laws of the Society. The Administrator/Election Officer shall have all such powers as are necessary and incidental for the purpose of holding free, fair, and transparent elections, including but not limited to issuing election schedules, scrutinizing nominations, resolving electoral objections, and declaring election results. The entire election process shall be completed within a period of three (03) months from the date of receipt of this order and handing over the affairs to the newly elected body just after nominations. The fee of Mr. Justice (Retd.) Nadeem Azhar Siddique is fixed at Rs. 300,000/- (Rupees Three Hundred Thousand only), which shall be paid in advance by the Petitioner Society.

6. With these observations and directions and with the consent of the parties present in court, the petition stands disposed of in the above terms. A copy of this order shall be communicated to Mr. Justice (Retd.) Nadeem Azhar Siddique at his address through all modes, including electronic and WhatsApp applications.

JUDGE

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