

IN THE HIGH COURT OF SINDH, KARACHI

**C. P. NO. D-5254 / 2026
(Umara Arain Vs. Government of Sindh & Others)**

Present:

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

Date of hearing and order: 01.09.2026.

Mr. Wazir Hussain Khoso, Advocate a/w Petitioner.
Mr. Abdul Jalil Zubedi, Assistant Advocate General Sindh.
Mr. Afzal Rehman Memon, Advocate for Respondents No. 5 & 6.
Mr. Allah Ditta Khoso, Litigation Officer, SE&LD.
Mr. Huzoor Bux, DEO, Thatta.

ORDER

Adnan-ul-Karim Memon, J. Petitioner Umara Arain has filed this Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan seeking the following reliefs: -

- “a) *Declare the impugned order/action dated 05-08-2026, whereby Respondent No.5 purportedly switched/transferred the charge of the concerned unit from the Petitioner to Respondent No.6, Ms. Sobia Baloch, as coram non judice, without lawful authority, without jurisdiction, illegal, void and of no legal effect;*
- b) *Suspend the operation/effect of the impugned order/action dated 05-08-2026.*
- c) *Set aside/quash the impugned order/action dated 05-08-2026, which affects Petitioner's lawful posting and responsibility as In-Charge Head Mistress.*
- d) *Declare that Respondent No.5 had no lawful authority or competence to cancel, modify, suspend, reverse, supersede or otherwise interfere with Order No.2858 dated 16-07-2026 issued by the competent departmental authority.*
- e) *Direct Respondents No.1 to 4 to ensure implementation of Order No.2858 dated 16-07-2026 and permit the Petitioner to discharge the responsibility entrusted to her as In-Charge Head Mistress in accordance with law.*
- f) *Direct Respondent No.5 to refrain from interfering with the Petitioner's lawful duties and official charge issued by the competent authority;”*

2. The Petitioner, Umara Arain, a serving HST teacher, filed this petition under Article 199 of the Constitution challenging the action dated 05.08.2026 whereby Respondent No.5 allegedly transferred the charge of Government Girls Lower Secondary School, Sindhi Merge, District Thatta, to Respondent No.6.

3. The Petitioner who appears in person along with her counsel, contended that she had been lawfully posted to the school pursuant to an order dated 12.03.2026 and, thereafter, was entrusted with the additional responsibility of In-Charge Head Mistress by the District Education Officer, Thatta, vide order dated 16.07.2026.

She asserted that Respondent No.5, being merely the Head Master of the Main Campus, had no authority to interfere with or supersede the said order and, upon her refusal to pay Rs.200,000/-, obstructed her from assuming charge and subsequently switched the charge to Respondent No.6. She prayed to allow this petition.

4. The counsel for the private Respondent opposed the petition on maintainability, contending that Respondent No.6 had already been permitted by the District Education Officer to continue as In-Charge based on the allegations levelled against the petitioner and he only endorsed the order and communicated to the DEO and information to the petitioner; therefore, this petition is liable to be dismissed, and Respondent No.6 may be allowed to continue with the subject assignment.

5. At this stage, the learned AAG, assisted by the District Education Officer, intervened and submitted that the matter needs to be remitted to the District Education Officer for a fresh decision after hearing all concerned.

6. We have heard the parties and examined the record with their assistance.

7. The admitted position is that the Petitioner, being a serving HST teacher, was posted at the subject school pursuant to order dated 12.03.2026 and was subsequently entrusted with the additional charge of In-Charge Head Mistress by the competent District Education Officer vide order dated 16.07.2026. The said order was neither shown to have been recalled, suspended, reviewed nor set aside by the competent authority before Respondents No. 5 & 6 purportedly assumed/interfered with the charge.

8. The principal question, therefore, is not merely who is presently performing the duties, but whether Respondent No.5 possessed lawful authority to override an existing order of the competent departmental authority. Primarily, an administrative officer cannot, by virtue of holding a particular post or being posted at a main campus, unilaterally nullify, modify or supersede an order passed by an authority competent to assign additional charge. The power to issue an administrative order ordinarily carries with it the corresponding authority to alter or recall it; a subordinate or co-ordinate officer cannot assume such power unless expressly conferred by law, rules or a subsequent order of the competent authority.

9. The plea of Respondent No.6 that he was permitted by the District Education Officer to continue as In-Charge on account of allegations against the Petitioner by the order of respondent No.5 also does not, by itself, validate the impugned action. If the Petitioner was facing allegations, the proper course was to

initiate appropriate proceedings in accordance with law and, if considered necessary, obtain a reasoned order from the competent authority regarding her assignment. Allegations, howsoever serious, do not automatically extinguish an existing administrative order, nor do they confer jurisdiction upon an otherwise unauthorized officer to replace the person lawfully entrusted with the charge.

10. There is also a fundamental distinction between administrative discretion and administrative authority. It is well settled that discretion may be exercised only within the confines of the jurisdiction conferred by law. Respondent No.5 could not convert his position as Head Master of the Main Campus into a source of jurisdiction to cancel or supersede Order No.2858 dated 16.07.2026. Any such action, if unsupported by a statutory rule, delegation or order of the competent authority, would constitute an exercise of jurisdiction not vested in him.

11. The allegation made by the Petitioner that she was prevented from assuming charge upon her refusal to pay Rs.200,000/- is a serious allegation. Whether or not the allegation ultimately stands established is a matter for the competent departmental forum; nevertheless, such allegation cannot be used as a justification for an otherwise unauthorized alteration of the charge. A disputed allegation cannot be treated as a fact to deprive an employee of an existing administrative assignment without due process.

12. The principle of fairness, transparency and due process in administrative action further requires that where an existing order conferring an official responsibility upon an employee is sought to be withdrawn or replaced based on allegations, the affected employee must at least be afforded a meaningful opportunity to explain her position, particularly where the proposed action carries adverse civil consequences. An administrative arrangement may undoubtedly be changed by the competent authority, but such change must emanate from the proper authority, for lawful reasons, and through a procedurally fair decision.

13. Consequently, respondents cannot claim a superior or vested right merely from previous possession of the charge. Past possession of an administrative charge does not create an indefeasible right to retain it, particularly when the competent authority has subsequently entrusted the responsibility to another officer. However, at the same time the Petitioner also cannot claim an absolute and perpetual right to the additional charge; the competent authority retains the power to reconsider the arrangement in accordance with law. The legality of the competing claims must, therefore, be determined by the competent departmental authority rather than by unilateral assumption of power by Respondent No.6 by the order of respondent No.5 on his / her own accord.

14. In these circumstances, the course suggested by the learned AAG appears to be the legally appropriate solution. The matter needs to be placed before the District Education Officer, Thatta, being the competent departmental authority, for a fresh, independent and speaking decision after affording all concerned a meaningful opportunity of hearing. Until such decision, the status resulting from the competent order dated 16.07.2026 should not be disturbed by an officer lacking demonstrated authority to supersede the same.

15. Accordingly, the petition is disposed of with directions to the District Education Officer, Thatta, to decide, within two weeks, whether the additional charge of In-Charge Head Mistress is to remain with the Petitioner or be entrusted to Respondent No.6, after affording meaningful opportunity of hearing to the Petitioner, Respondents No.5 & 6 and other concerned persons, and by passing a reasoned and speaking order strictly in accordance with law and the applicable departmental rules. Until such decision, the Petitioner shall continue to perform duties as In-Charge Head Mistress.

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