

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
Const: Petition No. D-1001 of 2020

Ghulam Mohyuddin Awan deceased through his legal heirs
Versus
The Director General KDA & others

Date	Order with signature(s) of Judge(s)
------	-------------------------------------

For orders as to maintainability of petition.

16th September, 2026.

M/s Mr. Muhammad Najeeb Jamali & Areeb Ahmed
Soomro, Advocates for petitioner.
Mr. Muhammad Kamran Baloch, A.A.G.Sindh.
Mr. Khursheed Javed, Advocate for KDA.
Mr. Abdul Samee Advocate for MDA.

>>>> <<<<

Muhammad Saleem Jessar, J.: At the very outset, learned counsel for the petitioner submits that Provincial Ombudsman Sindh, Karachi has passed order dated 02.11.2011, available at page 35 of the file, has not been implemented, therefore, instant petition is maintainable. It is further contended that despite specific directions issued by this Court vide order dated 22.01.2024, the respondents have failed to comply with the same. He therefore, prays for grant of petition. In support of his contentions, learned counsel for the petitioner has placed reliance upon the cases of *Chaudhary Abdul Latif V/S Azad Government of the State of Jammu & Kashmir through Chief Secretary & 6 others* (2020 CLC 1429), *Afshi Ibrahim V/S District Government, Khanewal through District Coordination Officer & 2 others* (2015 PLC (CS) 646), *Messrs Sharif Khan Bothers V/S Chief Controller, Imports and Exports and others* (2001 YLR 2211), *Federation of Pakistan through Secretary Establishment Division Government of Pakistan Islamabad V/S Muhammad Tariq Pirzada & 2 others* (1999 SCMR 2744) and case of *Federation of Pakistan through Secretary Establishment Division Government of Pakistan Islamabad V/S Muhammad Tariq Pirzada & others* (1999 SCMR 2189).

On the other hand, learned A.A.G. Sindh as well as learned counsel for MDA while raising objection regarding maintainability of the instant petition submits that an alternate and efficacious remedy is available to the petitioner under Section 16 of the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991, whereby the petitioner may approach the Provincial Ombudsman for implementation of the order dated 02.11.2011.

Learned counsel for MDA has also placed on record a copy of the aforesaid Act along with relevant case laws reported as *PIA, Karachi V/s Wafaqi Mohtasib & others* (1998 PLC 212), *CDA & another V/S Zahid Iqbal & another* (PLD 2004 Supreme Court 99), *Board of Secondary Education V/S Provincial Ombudsman of Sindh & 2 others* (2019 CLC 153), *Zamard Begum & another V/s Muhammad Rafiq Choudhary & 2 others* (2017 CLC 1571), *Malik Allah Bakhsh V/S District Judge, Rajanpur & 2 others* (2014 CLC 216), unreported decisions dated 18.11.2021 and 21.02.2024 passed by this Court in C.P.No.D-4770/2021 and C.PNo.D-2365/2023 respectively; whereas learned counsel appearing for KDA has filed a statement dated 16.09.2026 along with compliance report, which are taken on record.

Having considered the submissions advanced by learned counsel for the parties and having gone through the material available on record, we are of the view that the grievance raised by the petitioner primarily relates to implementation of the order passed by the Provincial Ombudsman. The statute itself provides a mechanism for seeking implementation of such order, and therefore, the petitioner cannot ordinarily bypass the remedy specifically provided under Section 16 of the Act. In this context, reliance can be placed upon the judgment of this Court in *Director of School Education, Hyderabad Region, Hyderabad and another v. Provincial Ombudsman and another* (1999 MLD 2856), wherein, while dealing with non-compliance of an order of the Provincial Ombudsman, it was observed that the aggrieved person could approach the Ombudsman under Section 16 of the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991 for appropriate action, including proceedings for contempt. The Court accordingly recognized the statutory mechanism available before the Ombudsman for securing compliance with his order. Likewise, in *Syed Muhammad Tauheed v. Province of Sindh and others* (Const. P. No.4770 of 2021, decided on 18.11.2021), the learned Division Bench of this Court considered a petition seeking, inter alia, implementation of an order passed by the Provincial Ombudsman. The Court held that an efficacious remedy was available before the Provincial Ombudsman under Sections 11(5) and 12(1) of the Establishment of the Office of Ombudsmen for the Province of Sindh Act, 1991, and observed that the Ombudsman was duly empowered to secure implementation of his recommendations. The constitutional petition was, therefore, held to be not maintainable in the circumstances. Reliance may further be placed on the judgment reported as "*Human Rights (Environmental Pollution in Balochistan in Re vs. "Human Rights (Environmental Pollution in Balochistan"* (PLD 1994 SC 102 relevant at page 119),

wherein, it was observed that Article 199 of the Constitution provides that same cannot be invoked if alternate remedy is available to the aggrieved party under the relevant law. In this behalf, reference may also be made to Abdur Rehman's case (PLD 1987 SC 21) wherein, it was held that writ jurisdiction could be exercised only on proof of non-availability of adequate remedy. In this behalf reliance can also be placed on the judgment reported as "Allah Bakhsh vs. Muhammad Ismail" (1987 SCMR 810) and "Moula Bux alias Mouledino vs. S.H.O Police Station Hatri Ghulam Shah and 2 others" (2003 YLR 1316).

In view of above, without expressing any opinion on the merits of petitioner's claim, instant petition is disposed of with liberty to the petitioner to avail remedy available under the law before competent forum. In case petitioner approaches the Provincial Ombudsman, Sindh, with an appropriate application for implementation of the order dated 02.11.2011, same shall be dealt with strictly in accordance with law.

Petition stands disposed of in the above terms along with pending applications, if any.

Judge
Head of Const. Benches

Aamir/PS

Karachi, 16th September, 2026.

Approved for reporting.

Judge