

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-99 of 2026
(Saeed Khan & another versus The Province of Sindh & others)

Date	Order with signature of Judge
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1. For order on office objections
2. For hearing of CMA No.388/2026 (Stay)
3. For hearing of main case

09.1.2026

Mr. Munawar Ali advocate for the petitioners
 Mr. Sandeep Malani, Assistant AG
 Mr. Hazim Bangwar, Assistant Commissioner, Saddar, Karachi
 Mr. Zafarullah Jakhrani, Mukhriarkar Saddar appeared on behalf of respondent No.3
 SIP Nasir, Police Station Preedy, Karachi

ORDER

Adnan-ul-Karim Memon, J. – The Petitioners pray as follows:

Declare Respondent No.4's actions arbitrary, illegal, and unconstitutional.

Suspend the sealing order and direct de-sealing of Quetta Star Restaurant.

Direct disciplinary proceedings against Respondent No.4 for misconduct towards Petitioner No.1.

Direct Respondent No.4 to issue a written apology to Petitioner No.1.

2. The case of the Petitioners is that Petitioner No.1 is a practicing Advocate, and Petitioner No.2, his brother, owns Quetta Star Restaurant in Saddar, Karachi. On 05.01.2026, while Petitioner No.1 was at the restaurant, Respondent No.4, Assistant Commissioner Hazim Bangwar, arrived under the pretext of an anti-encroachment drive, despite no encroachment existing, and ordered the restaurant to be sealed without lawful justification. When Petitioner No.1 questioned this in his professional capacity, Respondent No.4 misused his authority, directed the police to arrest him, physically assaulted and humiliated him publicly, and forcibly made him sit in a police van. No prior notice, show-cause, or opportunity of hearing was provided. Despite similarly placed establishments being de-sealed the next day, Petitioner No.2's restaurant remains sealed, reflecting arbitrary and discriminatory treatment. Respondent No.4 also confiscated mobile phones to suppress evidence and threatened the Petitioners with fabricated cases. On 06.01.2026, Petitioner No.1 accompanied his brother to seek de-sealing, but was again humiliated and threatened. The actions of Respondent No.4 have been

publicly condemned by legal and civil society bodies, compelling the Petitioners to approach this Court.

3. Learned counsel for the Petitioners submitted that the actions of the Respondents amounted to a violation of the Petitioners' fundamental rights guaranteed under Articles 4, 9, 14, 18, 23, and 24 of the Constitution, as their life, liberty, dignity, and lawful business rights were infringed. He contended that the impugned action was taken without due process, as no notice or opportunity of hearing was provided, thereby violating the principle of *audi alteram partem*. He further argued that the action was arbitrary, malafide, and discriminatory, noting that similarly situated businesses were de-sealed while Petitioner No.2's restaurant remained sealed. Learned counsel also submitted that Respondent No.4 misused public power by acting beyond legal authority and harassing and assaulting an Advocate. He emphasized that the executive action was taken in contravention of constitutional and statutory procedures and was unreasonable and disproportionate, as the sealing of the restaurant was excessive and unjustified. He prayed that the Petition be allowed.

4. On Court notice the Assistant Commissioner present in Court submitted that, pursuant to Notification No.CK/AC(HQ)/987/2025 dated 5th November 2025, issued by the competent authority, SOPs have been established to regulate roadside seating by eateries and cafes, ensuring traffic flow, public safety, and convenience. He submitted that his actions were within SOPs, by submitting further that the petitioners attempted to bribe officials, but he is willing to de-seal the premises and return the mobile phone if the petitioners submit an undertaking to comply with the SOPs and refrain from further encroachments in future.

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

6. Under the SOPs, the roads are categorized into major roads over 100 feet, where seating is prohibited; commercial/secondary roads between 60 to 100 feet; and residential/mixed-use streets under 60 feet, where seating is allowed only with a No Objection Certificate (NOC). To obtain an NOC, an eatery must apply with CNIC, trade license, rental agreement, and undertaking, followed by a joint inspection by the Town Municipal Officer, Traffic Police, and Mukhtiarkar. The Town Officer forwards recommendations to the Deputy Commissioner, who grants conditional approval for one year, and the NOC must be displayed. NOCs may be suspended or canceled for violations, with repeated breaches leading to blacklisting. However, the enforcement is shared among the Town Municipal Officer, Deputy Commissioner, Traffic Police, SSWMB, and Hotels & Restaurant

Associations. SOPs for regulation and management of roadside arrangement are reproduced as under: -

“STANDARD OPERATING PROCEDURES (SOPs) FOR REGULATION AND MANAGEMENT OF ROADSIDE ARRANGEMENTS

In pursuance of Notification No.CK/AC(HQ)/987/2025 dated 05th November 2025, the following Standard Operating Procedures (SOPs) is hereby formulated to ensure smooth traffic flow of traffic, maintain public convenience and prevent hazards of nuisance arising from the roadside settings:-

1. Objective

To regulate the placement of chairs, tables, and food setups by roadside hotels, cafés, and eateries in a manner that ensures: free and safe movement of pedestrians and vehicles, orderly use of public spaces, support to small businesses, and integration of residents' feedback into local governance.

2. Road Classification and Policy

<u>Category</u>	<u>Policy</u>
A. Zero Tolerance Roads All major roads above 100 feet width or declared as Major Arteries.	Strictly Prohibited. No outdoor placement of chairs/tables or any obstruction on footpaths, service lanes, or road shoulders.
B. Regulated Roads Commercial and secondary roads (60-100 feet width) with established eateries.	Allowed with Prior NOC from Town Office and Deputy Commissioner concerned. Limited to subject available space verification / recommendation of to the joint verification as per Para 3(2) below from property boundary without blocking pedestrian or vehicular movement.
C. Neighborhood Streets Residential or mixed-use streets below 60 feet width.	Same as above

3. NOC (No Objection Certificate) Mechanism and Process:

1. Application Process:	Proprietor submits application to the Town Municipal Office with CNC trade license and Rental agreement, and undertaking
2. Joint Verification:	Conducted by Town Municipal Officer, Traffic Police and Muktiarkar to assess obstruction, hygiene, and nuisance potential.
3. Approval Process:	Town Officer forwards recommendation to Deputy Commissioner for conditional approval, valid for one year.
4. Mandatory Display:	NOC must be displayed prominently at the establishment.

4. Conditions for Retention or Revocation of NOC

The NOC shall be suspended or canceled if:

- District Administration, Traffic Police or Town Administration or any complaint reporting and mentioning to Deputy Commissioner regarding violation of limits or encroachment or violations of SOP's defined here.
- A 7-day notice will be issued before cancellation. Repeated violations may lead to permanent blacklisting

5. Enforcement Responsibility

Town Municipal Officer: Primary enforcement and renewal authority.

Deputy Commissioner: NOC approval, cancellation, and appeals.

Traffic Police:	Enforcement on major roads and removal of encroachment.
SSWMB:	Responsible for waste collection and cleanliness.
Hotels & Restaurant Associations	Responsible for maintaining hygiene and cleanliness and ensure implementation of above mentioned SOP's.”

7. In view of the above, the roadside seating / encroachment by any means is not permissible to ensure traffic flow, public safety, and orderly use of public space. The Petitioners have now submitted an undertaking before this Court that they will refrain from encroaching upon public roads, and operate their restaurant within the lawful limits specified.

8. Given this undertaking, the Petitioners are expected to comply with all laws, policies, and SOPs, and accordingly, the sealing of the subject restaurant is set aside and mobile phone, if any, confiscated is restored to its owner. The Sindh Government and head of the KMC shall ensure compliance of the order forthwith without fail.

9. This Petition along with pending application(s) stands disposed of in the above terms.

Let a copy of this order be communicated to the Chief Secretary Sindh and competent authority of KMC for compliance.

JUDGE

JUDGE