

IN THE HIGH COURT OF SINDH, KARACHI
C.P No. D- 625 of 2026

Maria Ahmad V. Federation of Pakistan & others

Present:

Mr. Justice Yousuf Ali Sayeed,
 Mr. Justice Muhammad Osman Ali Hadi

Date of hearing: 11.02.2026.

Date of decision: 11.02.2026.

Maria Ahmad, Petitioner in person.

O R D E R

Muhammad Osman Ali Hadi, J: The Petitioner is an Advocate, who is appearing in person. Through the instant Petition, she has sought declaration and directions against the Speaker of the National Assembly (Parliament), whereby, she submits that the Speaker / Parliament are mandated to provide a proper criterion of rules and procedure when appointing a *'Member'* under Article 175A(2)(viii) of the Constitution of the Islamic Republic of Pakistan 1973, to the Judicial Commission of Pakistan ("JCP" and/or "Commission").

2. The gist of the Petitioner's grievance is that the said Article 175A(2)(viii) of the Constitution¹ does not provide any proper criterion for the term "**technocrat**", which as per the Petitioner has not been defined therein².

3. The Petitioner has further contended that as per her understanding, the scheme of the said Article provides that an appointment made under Article 175A(2)(viii) of the Constitution, would have to be representative of women and/or Non-Muslims in the Commission, and that the same has to be done by virtue of promulgation of transparent rules and procedures, disclosing the reasoning behind such appointment. She further submits that

¹ Detailed in Paragraphs 4-6 of the Memo of the Petition.

² Stated in Paragraph-5 of the Memo of Petition.

without such proper reasoning, the appointment cannot be left at the sole discretion of the Speaker of the National Assembly.

4. We have heard the Petitioner's contentions. The instant Petition has not directly challenged the *vires* of Article 175A(2)(viii) of the Constitution, but rather the Petitioner is seeking that an adequate process be initiated, whereby there is a transparent mechanism for appointment(s) being made under Article 175A(2)(viii). For purposes of clarity, the said Article 175A(2)(viii) is reproduced below:

“175A. Appoint of Judges to [the Federal Constitutional Court,] the Supreme Court, High Courts and the Federal Shariat Court.—(1) There shall be a Judicial Commission of Pakistan, hereinafter in this Article referred to as the Commission, for appointment of Judges of [Federal Constitutional Court,] the Supreme Court, High Courts and the Federal Shariat Court [and for performance evaluation of Judges of the High Courts,] as hereinafter provided.

(2) For appointment of Judges of [Federal Constitutional Court and] the Supreme Court, the Commission shall consist of—

- (i).....
- (ii).....
- (iii).....
- (iv).....
- (v).....
- (vi).....
- (vii).....

(viii) a woman or non-Muslim or a technocrat other than a member of *Majlis-e-Shoora* (Parliament), who is qualified to be member of the *Majlis-e-Shora* (Parliament), to be appointed by the Speaker of the National Assembly;

5. The said Article has clearly provided that the eligibility criteria for such Member of the Judicial Commission shall be a “woman” or “non Muslim” or a “technocrat”; to be appointed by the Speaker of the National Assembly. The Petitioner has stated in Paragraph 5 of her Memo of Petition that the term **“technocrat”** has not been defined under Article 175(A)(2)(viii). However,

perhaps it has slipped the eye of the Petitioner, but Article 260 of the Constitution has (unambiguously) defined “**technocrat**” as:-

“technocrat” means a person who has sixteen years of education and fifteen years of experience in his field.

6. The said definition was inserted by Section 53 of Act No. XXXII of 2025, which was incidentally the same Act that inserted Article 175A(2)(viii) of the Constitution (subject matter of this Petition). Insertion of the definition of “*technocrat*” in the same statute which inserted Article 175A(2)(viii), would beg to reason the legislature had intentionally included the term and definition of “**technocrat**” to be used in the exact manner as stated in Article 175A(2)(viii) of the Constitution, i.e. being one of the three criterion provided for appointment to the JCP (under this particular clause). Any alternate reading of the same, as is being advocated by the Petitioner (who has submitted ‘*technocrat*’ would mandatorily include a woman or non-Muslim), would appear to supply a separate meaning to the term, contrary to the definition provided under Article 260 (*ibid*).

7. Our Courts have repeatedly held that where the law is clear, it is not the prerogative of the Court to interpret the same in a manner which would have the effect of altering / amending such law. The plea of the Petitioner, whilst not directly challenging the provision of Article 175A(2)(viii), has indirectly challenged the same. The said Article 175A(2)(viii) in fact does provide its own criterion for persons to be appointed on the JCP, which includes either a woman or non-Muslim or technocrat,³ who is not a member of Parliament but is qualified to be so. It is not for the Court to supply any further meaning within the qualifications / standards set by the Legislature, as that would have the inadvertent effect of altering the legally settled selection criteria, which would be tantamount to legislating.

³ There of course appears no cavil against a person fulfilling all three conditions

8. The principle of *casus omissus* (i.e. providing wording in a statute where the same has been excluded or omitted by the legislature) has often been discussed in our jurisprudence, and is relevant to mention here, as that is the concept being urged by the Petitioner. In the case of *Dpy. Director Finance & Administration FATA v Dr. Lal Marjan*,⁴ the Supreme Court when discussing the principle of *casus omissus*, opined as follows:

“As such, the learned High Court could not have extended the application of the 2009 Act, or any Act of Parliament or the Provincial Assembly for that matter, to FATA/PATA on the touchstone of the principle of casus omissus. The said principle categorically provides that, where the legislature has not provided something in the language of the law, the Court cannot travel beyond its jurisdiction and read something into the law as the same would be ultra vires the powers available to the Court under the Constitution and would constitute an order without jurisdiction. The same would also be against the principle of Trichotomy of Powers upon which the State functions. All three organs of the State have been given specific powers under the law and as such, the said powers cannot be overstepped.”

9. In the case of *Dr. Zahid Javed*,⁵ the August Supreme Court elaborated:

“5.....When language of the provision is plain and unambiguous the question of supplying casus omissus does not arise. The Court can interpret a law but cannot legislate. It is a familiar rule of interpretation that the word used by legislature must be construed according to its plain natural meaning and that legislature never use redundant or surplus words/phrases”.

10. The above fortifies our view, that since the wordings of Article 175A(2)(viii) is clear, the same does not require interference by the Court to supply and/or read any further words into the subject Article, as that is a topic for the Legislature. The Courts derive only those powers granted under law, and must refrain from delving into areas beyond. Any deviation from the same would result in dangerous consequences.

11. In the instant matter, the Petitioner has neither challenged validity of the said Article 175A(2)(viii), nor its promulgation;

⁴ 2022 SCMR 566

⁵ PLD 2016 SC 637

therefore (for the instant purposes) the Petitioner has accepted that such Article was enacted in a lawful manner. Consequently, if the Court was to interpret the said Article 175A(2)(viii) in the manner prayed by the Petitioner, i.e. by issuing directions to the Speaker to provide rules and reasons for such appointments, i.e. in essence remove the discretionary power given to the Speaker for such appointment, the same would not be considered anything else apart from legislating by the Court, which of course is impermissible.

12. In the recent case of *Kassim Textile Mills (Pvt.) Ltd. v C.I.R.*⁶ the following was observed by a 3 Member Bench of the Supreme Court:

“13.The principles of statutory interpretation are well settled. Where the words of the statute are clear and unambiguous, the provision should be given its plain and normal meaning, without adding or rejecting any words. Departure from the literal rule, by making structural changes or substituting words in a clear statutory provision, under the guise of interpretation will pose a great risk as the changes may not be what the Legislature intended or desired. The Court cannot recast or reframe the legislation for the very reason it has no power to legislate. The Court cannot add words to a statute or read words into it which are not there unless the principles of interpretation of statute require otherwise. The legislature means what it says and says what it means. It is the obligation of the Courts of law to further the clear intendment of the legislature and not to frustrate it by ignoring the same. Legislative wisdom cannot be replaced by the Judge's views.”

13. The prayer sought by the Petitioner is effectively indirectly inviting this Court to legislate and supply words/meaning into the said Article 175A(2)(viii), which is beyond the Court's mandate, as legislation undisputedly falls within the domain of Parliament (we hereby refer to the binding precedents *supra*).

14. Furthermore, if the Petitioner's prayer was to be allowed, the same would have the effect of withdrawing the powers granted by Parliament to the Speaker of the National Assembly under Article 175A(2)(viii), in direct deviation from law.

15. For the above stated reasons, we find that any interference, as has been sought by the Petitioner under Article 175A(2)(viii) of the Constitution is beyond the scope of judicial interference, as the same has been promulgated by the Parliament in their wisdom, for which they are empowered under the Constitution of Islamic Republic of Pakistan 1973. Interference in the same would not only be judicial overreach, it would also distort the trichotomy of powers provided under the scheme of the Constitution.

16. In light of the aforesaid, the instant Petition being misconceived, was dismissed *in limine* vide short order dated 11.02.2026, for the above-stated reasons.

Petition dismissed.

Judge

Judge

Ayaz