

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-5049 of 2024
(Sharifullah versus Province of Sindh & others)

Date	Order with signature of Judge(s)
<u>Fresh Case</u>	Before: Mr. Justice Adnan-ul-Karim Memon Mr. Justice Abdul Mubeen Lakho

Date of hearing and order : 13.01.2026

Mr. Abdul Majeed Khoso advocate for the petitioner
Mr. Mehran Khan AAG

ORDER

Adnan-ul-Karim Memon, J. – The petitioner has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- (A) *That direct the Respondents to hold the fresh election of the Association of As-Asif Square Resident Welfare Association as per memorandum and article of association under the supervision of Provincial Assistant Registrar Joint Stock Companies Sindh Karachi and the Nazir of this Court.*
- (B) *To direct the Respondent No.4 to depute officer from his office to scrutinize the entire memberships record of the al-Asif Square Resident Welfare Association and if the renewal of some membership is required or new membership application will be examined by date officer in accordance with the memorandum and article of Association within period of 30 days and after scrutiny process announce schedule for holding election within period of 30 days.*
- (C) *To direct the respondents to fix date for annual general meeting of Al-Asif Square Resident Association as provided in the memorandum and article of assertion and publish in newspaper and fix the venue.*
- (D) *To direct the respondent No.5 to bear all expenses of the electing from the account of Al-Asif Square Resident Welfare Association.*

2. The petitioner’s counsel contends that the Al-Asif Square Resident Welfare Association was registered on 09.03.2022, but prior to that, the association existed under registration No. DSW(S)635 of 1984, with the petitioner serving as President from 2015 to 2017. The petitioner challenged respondent No.3’s letter dated 04.12.2017, which unlawfully recognized another panel as the managing committee in C.P. No. 7353/2018. The petitioner’s counsel alleges that the present unelected committee of respondent No.5 is illegally collecting maintenance fees without issuing membership cards or reviewing old memberships. According to the association’s bylaws, the managing committee’s tenure is two years, and no fresh elections have been held. The current management is accused of unlawful activities, including harboring drug users, illegal gas supply, installation of generators, and non-payment of utility arrears, endangering residents’ safety. He prayed to allow this Petition.

3. No comments were received from the AAG office. However, the learned AAG questioned the maintainability of the petition, arguing that this Court cannot direct elections of a private society or welfare association under Article 199 of the Constitution.

4. After hearing the learned counsel and perusing the record, this Court finds that the instant petition is not maintainable under Article 199 of the Constitution.

5. The core grievance of the petitioner relates to internal affairs and election of a private welfare association, which does not involve the exercise of executive authority, public law functions or violation of enforceable fundamental rights in a manner cognizable under Article 199 of the Constitution.

6. It is well-settled that High Courts under Article 199 of the Constitution have jurisdiction only where a person performs functions in connection with the affairs of the Federation, a Province, or a local authority, or where there is breach of a constitutional or legal duty by a public authority. Matters purely intra-association in nature, including disputes over elections, membership and internal management of private societies, fall outside the scope of writ jurisdiction unless fundamental rights are directly implicated.

7. In similar circumstances, this Court and other benches have held that petitions challenging the election or internal governance of associations registered under the Societies Registration Act are devoid of maintainability under Article 199 of the Constitution and must be dismissed since such bodies are not performing public functions nor represent a public authority amenable to constitutional jurisdiction. On the aforesaid proposition reliance has been placed on the cases of Mirza Muhammad Nazakat Baig v. Federation of Pakistan (through Secretary Ministry of Law and Justice, Islamabad and another) (2020 SCMR 631) and Syed Iqbal Hussain Shah Gillani v. Pakistan Bar Council through Secretary Supreme Court Bar Building Islamabad and others (2021 SCMR 425).

8. Accordingly, the petition is dismissed on maintainability grounds as no case is made out for exercise of writ jurisdiction under Article 199 of the Constitution.

JUDGE

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