

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**C. P. No. D-8151 of 2018**  
(Iqbal Ahmed Khan v Sindh Industrial Trading Estate Ltd. and other)

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Date	Order with signature of Judge
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**Before:-**  
**Mr. Justice Adnan-ul-Karim Memon**  
**Mr. Justice Zulfiqar Ali Sangi**

**Date of hearing and order:-15.04.2026.**

Mr. Salahuddin Panhwar advocate for the petitioner.  
Ms. Sofia Saeed advocate for the Respondents (SITE).

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**ORDER**

**Adnan-ul-Karim Memon , J** Petitioner Iqbal Ahmed Khan has filed this petition under Article 199 of the Constitution with following prayer(s):-

- i) *To direct the Respondent No.2 or any persons or employees acting under them grant permission for construction on the alleged plot bearing No. E-130, measuring 0.50 acres, situated at Sindh Industrial Trading Estate Limited, SITE Super Highway Karachi;*
- ii) *Permanently restrain the Respondents, especially the Respondent No.2 or any persons or employees acting under them, from harassing or blackmailing the petitioner.*

2. Learned counsel for the petitioner submitted that the petitioner is the lawful owner of Plot No. E-130, measuring 0.50 acres, situated at Sindh Industrial Trading Estate (SITE), Super Highway, Phase-II, Karachi. The said plot was acquired for the establishment of a factory. In this regard, the petitioner submitted an application dated 01.11.2017 to the concerned authority, namely the State Engineer, SITE Limited (Respondent No. 2), seeking permission to undertake construction, including the boundary wall and ground foundation. It was contended that the petitioner fulfilled all statutory and regulatory requirements and deposited the requisite fees and challans in accordance with the applicable rules. Learned counsel further argued that despite the petitioner's compliance with all formalities, Respondent No. 2 failed to process or decide the application for a considerable period without assigning any lawful justification. Per learned counsel such inaction was/is mala fide, discriminatory, and motivated by ulterior motives, including harassment and attempts to extort illegal gratification. He added that the conduct of Respondent No. 2 was stated to be arbitrary, unreasonable, and in violation of the petitioner's fundamental rights, particularly the right to be dealt with in accordance with law as guaranteed under Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973. It was further submitted that the failure of a statutory functionary to exercise its discretion fairly and within a reasonable time renders such inaction illegal and unconstitutional. In the absence of any adequate or efficacious alternate remedy, the petitioner

invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution. Learned counsel prayed that the respondents be directed to grant the requisite construction permission and be restrained from further harassment or blackmailing of the petitioner.

3. Conversely, learned counsel appearing on behalf of Respondent Nos. 1 and 2, SITE Limited, at the very outset raised the question of maintainability of the petitioner and submitted a statement explaining the circumstances that prevented the respondents from processing the petitioner's application. It was contended that the original files pertaining to several plots, including the petitioner's purported Plot No. E-130, situated at SITE Super Highway, Phase-II, Karachi, were seized by the National Accountability Bureau (NAB) in connection with an inquiry against officers and officials of SITE Limited and others. Learned counsel referred to the Seizure/Production Memo dated 02.03.2020, prepared at the NAB Karachi office located at Balochistan House, Block-2, Clifton, Karachi, under Inquiry No. NABK/20180720134982. She added that the memo indicated that 63 original files of various plots were taken into custody by the NAB Investigation Officer, in the presence of witnesses. Among these seized records was the original file relating to Plot No. E-130. It was therefore contended that, due to the unavailability of the original record, the respondents were unable to place the complete facts before this Court or to process the petitioner's request for construction permission, which is given otherwise a disputed question of fact, and this court cannot decide the lis order under Article 199 of the Constitution. Learned counsel submitted that the respondents had no mala fide intention or ulterior motive in delaying the petitioner's application; rather, the delay was occasioned by circumstances beyond their control, namely the seizure of the relevant record by NAB. Consequently, this petition is liable to be dismissed.

4. After hearing the learned counsel for the parties and perusing the available record, we have noticed that the petitioner claiming to be owner of Plot No. E-130, measuring 0.50 acres, situated at Sindh Industrial Trading Estate (SITE), Super Highway, Phase-II, Karachi. He had applied for construction permission on 01.11.2017, seeking approval for the boundary wall and ground foundation of a factory, and had fulfilled all statutory and regulatory requirements, including the submission of necessary documents and payment of requisite fees. It is urged that despite such compliance, the respondents failed to process or decide the petitioner's application within a reasonable time. This prolonged inaction prima facie amounts to administrative inefficiency and is inconsistent with the obligations of a statutory authority to act fairly, transparently, and within a reasonable timeframe. However, if the respondents have reservation on these issue of entitlement of the petitioner, they can pass on only with justifiable reason. However, that has not been done.

5. The explanation furnished by the respondents that the original files relating to the petitioner's plot were seized by the National Accountability Bureau (NAB) in connection with an inquiry does provide a plausible justification for the delay to a limited extent. However, such seizure cannot absolve the respondents of their statutory responsibilities. A public authority is expected to maintain duplicate records, obtain certified copies from the investigating agency, or take appropriate legal steps to ensure continuity of its functions. Administrative incapacity or inter-departmental constraints cannot be used to defeat the vested rights of a lawful allottee. It is a settled principle of law that discretion vested in a statutory functionary must be exercised fairly, reasonably, and within a reasonable period of time. Failure to do so renders the inaction amenable to constitutional jurisdiction of this Court. The Honourable Superior Courts of Pakistan have consistently held that where no adequate or efficacious alternate remedy exists, a petition under Article 199 is maintainable to compel performance of statutory duties. Furthermore, there is no material on record to suggest that the petitioner was involved in the NAB inquiry or that the allotment of the plot was under dispute or bogus. In the absence of any legal impediment, the petitioner's right to utilize his property, subject to his entitlement cannot be curtailed indefinitely, such aspect needs to be looked into by the competent authority.

6. The respondents' failure to decide the application for several years constitutes administrative inaction and violates the principle of expeditious decision-making by public authorities, which inaction infringes Article 4 of the Constitution. While the seizure of the original file explains part of the delay, it does not legally bar the respondents from reconstructing the record or obtaining certified copies to proceed with the petitioner's application. There is no evidence that the petitioner's allotment is under investigation or dispute, or bogus thereby removing any legal impediment to decide the application under the law.

7. In view of the foregoing, without touching the merits of the case, the petition is disposed of with directions to Respondent Nos. 1 and 2 to process and decide the petitioner's application subject to his entitlement under the law two months from the date of receipt of this order by passing speaking order of hearing the petitioner. The respondents shall, if necessary, obtain certified copies of the relevant record from the National Accountability Bureau (NAB) or reconstruct the file on the basis of available secondary evidence. If the petitioner is found to have fulfilled all legal and regulatory requirements.

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