

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**

*Constitutional Petition No. D- 91 of 2026*  
*[Ghulam Qadir Abro v. Federation of Pakistan & others)*

***Before:-***

***Mr. Justice Amjad Ali Bohio.***

***Mr. Justice Ali Haider 'Ada'.***

***Fresh case***

1. *For orders on office objection at flag 'A'*
2. *For orders on CMA No.261/2026 (S/A)*
3. *For the hearing of the main case*

**25.02.2026**

Mr. Nazir Ahmed Chachar, Advocate, along with the Petitioner

**ORDER**

**Ali Haider "Ada" J.** The petitioner has invoked the Constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, primarily on the ground that despite having moved applications/complaints against M/s APNA Microfinance Bank Limited, his grievance remains unattended; hence, he seeks issuance of a writ directing the respondents to decide and redress his grievance.

2. Briefly stated, the petitioner obtained a loan from M/s APNA Microfinance Bank Limited against the mortgage of two gold earrings (jhumki). A dispute allegedly arose between the parties regarding the outstanding amount payable to the Bank. In this regard, the petitioner initially approached the Senior Superintendent of Police, Sukkur, by filing a complaint dated 10.01.2025. Thereafter, he lodged a complaint before the FIA. He also moved an application before the Banking Court, Sukkur. Subsequently, he filed an application under Sections 22-A & 22-B, Cr.P.C, before the learned Ex-Officio Justice of Peace, Sukkur, dated 14.01.2025, which was dismissed on 17.01.2025.

Furthermore, on 20.02.2025, he submitted a complaint before the Wafaqi Mohtasib (Ombudsman), Regional Office, Sukkur. The present petition has now been filed on the same set of grievances.

3. Learned counsel for the petitioner submits that the petitioner has a grievance against M/s APNA Microfinance Bank Limited, which has not been redressed despite repeated approaches to various forums, and therefore, appropriate directions be issued to the concerned authorities for the resolution of the matter. However, during the course of the hearing, it transpired that the petitioner had been simultaneously invoking multiple forums on identical grievances without awaiting the outcome of any one proceeding. It was specifically pointed out that complaints were filed, and also before the Banking Court, thereby demonstrating that the petitioner has pursued parallel remedies before different authorities. When confronted with the availability of proper and competent forums under the law, learned counsel was unable to satisfactorily explain the correctness of invoking multiple jurisdictions simultaneously, some of which appear to be *Coram non iudice* in the circumstances of the case.

4. Arguments heard. Record perused.

5. Frequently, the petitioner has moved complaints and applications against the private institute/bank, and ultimately filed a complaint before the Wafaqi Mohtasib (Ombudsman), Regional Office Sukkur. The Wafaqi Mohtasib (Ombudsman) is a statutory institution established under the **Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983**. The jurisdiction, functions, and powers of the Mohtasib are specifically defined under Article 9 of the said Order. For ready reference, Article 9 is reproduced as under:

**9. Jurisdiction, functions and power of the Mohtasib.** – (1) *The Mohtasib may, on a complaint by any aggrieved person, on a reference by the President, the Federal Council or the National Assembly, as the*

*case may be, or on a motion of the Supreme Court or a High Court made during the course of any proceedings before it or of his own motion, undertake any investigation into any allegation of maladministration on the part of any Agency or any of its officers or employees:*

*Provided that the Mohtasib shall not have any jurisdiction to investigate or inquire into any matters which:*

*(a) are sub-judice before a court of competent jurisdiction or tribunal or board in Pakistan on the date of the receipt of a complaint, reference or motion by him; or*

*(b) relate to the external affairs of Pakistan or the relations or dealing of Pakistan with any foreign state or government; or*

*(c) relate to, or are connected with the defence of Pakistan or any part thereof, the military, naval and air forces of Pakistan, or the matters covered by the laws relating to those forces.*

*(2) Notwithstanding anything contained in clause (1), the Mohtasib shall not accept for investigation any complaint by or on behalf of a public servant or functionary concerning any matters relating to the Agency in which he is, or has been, working in respect of any personal grievance relating to his service therein.*

*(3) For carrying out the objectives of this Order and, in particular for ascertaining the root causes of corrupt practices and injustice, the Mohtasib may arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication.*

*(4) The Mohtasib may set up regional offices as, when and where required.*

6. Nonetheless, the foregoing, it is made clear that the Wafaqi Mohtasib (Ombudsman) is empowered to investigate any allegation of maladministration or impropriety on the part of any agency or any of its officers or employees. For this purpose, the term "agency" is specifically defined in the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983, under Article 2(1). For ready reference, Article 2(1) is reproduced as under:

*"Agency" means a Ministry, Division, Department, Commission or office of the Federal Government or statutory body, corporation or other institution established or controlled by the Federal Government but*

*does not include the Supreme Court, the Supreme Judicial Council, the Federal Shariat Court or a High Court;*

7. This definition clarifies the scope of the Ombudsman's jurisdiction and establishes the parameters within which complaints may be entertained and investigated. Now, coming to the substantive point, it is observed that the Banking Mohtasib (Ombudsman) is a competent forum to entertain complaints against financial institutions. Specifically, Part IV(A) of the Banking Companies Ordinance 1962 provides the mechanism regarding complaints relating to banks, commonly referred to as the Banking Mohtasib. In this context, Section 82-B of the Banking Companies Ordinance, 1962, provides the statutory mechanism for filing and adjudicating complaints against banking companies and financial institutions. For ease of reference, Section 82-B is reproduced as under:

***82B. Terms and conditions of the Banking Mohtasib.***

1. *The Banking Mohtasib shall be entitled to the same salary and allowances as a Judge of a High Court.*
2. *The Banking Mohtasib may be removed from office on the ground that he has been guilty of misconduct or that he is incapable of properly performing the duties of his office by reason of physical or mental incapacity.*

*Provided that he shall have the right to file an appeal before the Federal Services Tribunal.*

3. *The Banking Mohtasib shall be provided with a secretariat to be appointed in consultation with the State Bank. Appointments to the Secretariat may be made on deputation from the State Bank of Pakistan or other banks or otherwise on the basis of professional qualifications and the costs of the Secretariat shall be shared by banks in such proportions as may be determined by the State Bank of Pakistan.*
4. *The Banking Mohtasib shall have the power and responsibility --*
  - (a) to entertain complaints from customers, borrowers, banks or from any concerned body or organization;*
  - (b) to facilitate the amicable resolution of complaints after giving hearings to the complainant and the concerned Bank;*

*(c) To receive evidence on affidavit;*

*(d) To issue commission for the examination of witnesses; and*

*(e) in the event that complaints cannot be resolved by consent, to give finding which shall be acted upon in the manner set out herein.*

5. *The Banking Mohtasib shall exercise his powers and authority in the following manner :-*

*(a) In relation to all banks operating in Pakistan:- The Banking Mohtasib shall be authorized to entertain complaints of the nature set out herein below:-*

*(i) failure to act in accordance with banking laws and regulations including policy directives or guidelines issued by the State Bank from time to time.*

*Provided that there is a dispute as to the proper interpretation of any regulations, directions or guidelines, the same shall be referred to the State Bank for clarification.*

*(ii) delays or fraud in relation to the payment or collection of cheques, drafts, or other banking instruments or the transfer of funds;*

*(iii) fraudulent or unauthorized withdrawals or debit entries in accounts;*

*(iv) complaints from exporters or importers relating to banking services and obligations including letter of credits;*

*(v) complaints from holders of foreign currency accounts, whether maintained by residents or non-residents;*

*(vi) complaints relating to remittances to or from abroad;*

*(vii) complaints relating to mark-up or interest rates based on the ground of a violation of an agreement or of State Bank directives; and*

*(viii) complaints relating to the payment of utility bills.*

*(b) In relation to banks in the public sector:-. The Banking Mohtasib shall be authorized to entertain complaints against such banks on the following additional grounds as well ---*

*(i) corrupt or malafide practices by bank officers;*

*(ii) gross dereliction of duty in dealing with customers; and*

*(iii) inordinate delays in taking decisions.*

*(c) The Banking Mohtasib shall not entertain any complaint or application which has already been disposed off by the State Bank or any court in Pakistan.*

8. This provision clearly delineates the procedure and authority of the Banking Mohtasib in handling complaints, ensuring that aggrieved persons have a proper forum to seek redressal against financial institutions.

9. It is now clear that the matter referred by the petitioner under the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983, to the Wafaqi Mohtasib, in the presence of a Banking Mohtasib established under the Banking Companies Ordinance, 1962, is *coram non judice*. Consequently, even a proper forum, which was not invoked, cannot be directed to decide or pass orders on the grievance. The Wafaqi Mohtasib has no power to entertain complaints falling outside its domain, in view of Section 9 of the Order, 1983. The procedure adopted by the Wafaqi Mohtasib, Regional Office Sukkur, therefore, amounts to a jurisdictional error. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in **Peshawar Electricity Supply Limited v. Wafaqi Mohtasib (Ombudsman), Islamabad and others (PLD 2016 SC 940)**, wherein it was held that the High Court is fully competent to rectify illegality committed by the Wafaqi Mohtasib (Ombudsman).

10. Furthermore, the Honourable Federal Court of Pakistan, in **F.C.P.LA No. 464 of 2025, titled Ghulam Abbas v. Telephone Industries of Pakistan and 2 others, decided on 06.02.2026**, categorically held that a jurisdictional error committed by the Wafaqi Mohtasib can be corrected through the constitutional powers of the High Courts. The Honourable Court further held that the Wafaqi Mohtasib had wrongly assumed jurisdiction. Paragraph No. 12 of the judgment reads as follows:

“12. For the foregoing reasons, it is concluded that the case of the petitioner, which pertains to his personal grievance relating to his service, clearly falls under the aforesaid sub-Article 2 of Article 9 of the Order of 1983 containing a bar on the jurisdiction of Wafaqi Mohtasib. The Wafaqi Mohtasib has wrongly assumed jurisdiction while entertaining the complaint of the petitioner and giving findings on it, which he could not do...”

11. In view of the foregoing reasons and discussion, it is held that the petitioner has no case warranting interference in matters where an improper forum has been invoked. Accordingly, it is declared that the complaint initiated by the petitioner before the Wafaqi Mohtasib was made without jurisdiction and is, therefore, *coram non judice*, with no authority to entertain the same. It is further observed that the petitioner has already availed remedies before the FIA, the Senior Superintendent of Police, the Ex-Officio Justice of Peace, and the Banking Court. In such circumstances, the present Constitutional Petition is not maintainable and is, accordingly, dismissed in *limine*. Reliance in this regard is placed upon the judgments reported as **Indus Trading and Contracting Company v. Collector of Customs (Preventive), Karachi and others (2016 SCMR 842)**; **President, All Pakistan Women Association, Peshawar Cantt. v. Muhammad Akbar Awan and others (2020 SCMR 260)**; **Commissioner Inland Revenue and others v. Jahangir Khan Tareen and others (2022 SCMR 92)**; and **Executive Director (P&GS), State Life, Principal Office Karachi and others v. Muhammad Nisar, Area Manager, State Life Corporation of Pakistan, Peshawar Zone (2025 SCMR 249)**.

This order shall be communicated to the Wafaqi Mohtasib (Ombudsman), Regional Office Sukkur, for the purpose of placing on record that **Complaint No. WMS-IRD/0000292/2025** has been declared by this Court to be *coram non judice*.

JUDGE

JUDGE