

**HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

C.P. No.D-1768 of 2025

*[Advocate Fayaz Ahmed Laghari v. Federation of Pakistan and others]*

**Before:**

**JUSTICE ADNAN-UL-KARIM MEMON**

**JUSTICE RIAZAT ALI SAHAR**

Petitioner:	Advocate Fayaz Ahmed Laghari through M/s. Ishrat Ali Lohar, Unaib Kamal, advocate.
Respondents No.1&2:	Federation of Pakistan and another through Mr. Ghulam Abbas Sangi, Assistant Attorney General for Pakistan.
Respondents No.3&4:	Pakistan Bar Council and another through Mr. Salah-ud-Din Khan Gandapur, advocate.
Respondent No.5:	Secretary Sindh Bar Council though M/s. Muhammad Ismail Bhutto, Additional A.G. Sindh and Rafique Ahmed Dahri, Assistant A.G. Sindh.
Intervener:	Mansoor Ahmed through Mr.Asadullah Shah, advocate.
Intervener:	Muhammad Waseem Shah in person  M/s. Muhammad Arshad S.Pathan, Pir Darwesh, Zafar Laghari, advocates.
Date of Hearing:	20-11-2025.
Date of Judgment:	20-11-2025.

**ORDER**

**ADNAN-UL-KARIM MEMON, J:** - Through this Constitutional  
Petition, the Petitioner has prayed as under:

- a) *To declare that amendment in Rule 175-K the Legal  
Practitioner & Bar Council Rules by Pakistan Bar  
Council Notification No.158/PBC/SEC/2025 dated:  
September 08, 2025 is unconstitutional, without*

*lawful authority, capricious, and against spirit of equality guaranteed under the Article 25 of the Constitution of Pakistan 1973.*

- b) To declare that amendment/insertion of clause D in Section 5A of the Legal Practitioner & Bar Council Act 1973 by Pakistan Bar Council by Gazette of Pakistan dated: august 29, 2025 with schedule of election in Sind Bar Council, is unconstitutional, and against spirit of equality guaranteed under the Article 25 of the Constitution of Pakistan 1973.*
- c) To suspend the operation of newly amendments of Clause D of the Section 5A of the Legal Practitioner & Bar Council Act 1973 and operation of amendment in Rule 175-K the Legal Practitioner & Bar Council Rules till the final decision of the instant petition.*

2. The Petitioner, present along with his counsel, stated that he was enrolled as an Advocate of the subordinate courts on 17.06.2008 and as an Advocate of this Court on 15.12.2010, upon which he became a voter of the Hyderabad District Bar Association and the High Court Bar Association, Hyderabad. In April 2022, he transferred his vote from Hyderabad to the District Bar Association, Badin. He submitted that, under Rule 175-K(a) of the 1976 Rules, a member becomes eligible to vote after six months of membership, and after two years in case of transfer, and that he duly fulfilled these conditions and voted in the last DBA Badin election. The Petitioner stated that before the impugned amendment, Section 5-A of the 1973 Act prescribed only three qualifications for candidates: five years' standing as an Advocate of this Court, fifteen years' practice, and clearance of dues, all of which he met, however, on 28.08.2025, the Pakistan Bar Council inserted clause (d) into Section 5-A, introducing a five-year voter-membership requirement in the relevant district. He alleged that this amendment was introduced immediately before the nomination process scheduled for 01.11.2025, after the election process had already commenced on 14.09.2025, and was mala fide and aimed at excluding him. He further contended that the amendment to Rule 175-K applied only to district Bar Associations and not to Karachi Division, thereby discriminating against candidates from other districts. According to him, his right to transfer his vote is a vested statutory right and cannot be curtailed through selective amendments that effectively bar him from contesting. He maintained that the impugned amendments deprived him of his right to contest and violated his constitutional guarantees.

3. Learned counsel for the Petitioner argued that Section 5-A originally contained only three qualifications and did not include any requirement of five-year voter membership. He submitted that the impugned amendments introduce a new substantive disqualification not found in the parent statute and thus exceed the delegated authority under Sections 5-A and 55 of the 1973 Act. He asserted that delegated legislation cannot override or expand the Act and that the

amendments are therefore ultra vires, unconstitutional, and discriminatory. Counsel contended that exempting Karachi Division, on the ground that it has a single Bar Association, creates unjustified classes of candidates in violation of Article 25 of the Constitution. He argued that the Petitioner had satisfied all statutory qualifications under the unamended law and that the new requirement was introduced solely to target him, particularly because he had recently but lawfully transferred his vote and already completed the two-year restriction under Rule 175-K. He further submitted that electoral qualifications cannot be changed mid-process and that the timing of the amendments constitutes an unfair, colourable, and mala fide exercise of power. He maintained that both impugned amendments are ultra vires and liable to be struck down, and that the election should proceed under the original legal framework.

4. Pursuant to notice, counsel representing Pakistan Bar Council submitted that section 55 of the 1973 Act confers wide rule-making powers on the Pakistan Bar Council, enabling it to prescribe qualifications and conditions for candidates, regulate voting, and ensure the integrity of elections. He submitted that the amendments to Rule 175-K fall squarely within this delegated authority. The requirement of a five-year voter membership is a regulatory measure, not a substantive disqualification. He added that delegated legislation supplements the parent Act so long as it does not contradict it. He emphasized that no inconsistency has been demonstrated by the petitioner. Regarding the insertion of clause (d) to Section 5-A, he submitted that the amendment was made through due statutory procedure. This amendment merely clarifies existing electoral policy and provides a uniform framework to prevent last-minute shifting of votes. He argued that courts do not lightly invalidate legislative amendments, and every presumption is in favour of constitutionality. He added that the Petitioner's speculation about the mode or motive of enactment cannot displace this presumption. He further relied on sections 13(1) (i) and 13(1) (d) of the Act, which also confer rule-making authority upon the Pakistan Bar Council. On the issue of the classification between Karachi Division and the remaining districts of Sindh, he argued that the same is founded on intelligible differentia. He added that Karachi has a single, consolidated Bar Association with stable membership; in other districts of Sindh, it comprises multiple small Bar Associations where shifting of voter rolls has historically been a recurring electoral manipulation. He emphasized that the object of the amendment, ensuring transparency, stability of electoral rolls, and preventing engineered transfers, bears a rational nexus to the differential treatment. He also argued that regulatory measures to uphold the integrity of professional self-governance do not violate Article 25 of the Constitution, merely because they impose certain limitations. This requirement applies uniformly to all candidates positioned similarly within their respective divisions. He argued that no evidence of personal targeting or mala fide on the

part of PBC has been presented. Mere temporal proximity between an amendment and an election is insufficient to infer bad faith. He further argued that the right to contest the elections of a statutory professional body is not a fundamental right but a statutory privilege subject to reasonable qualifications/restrictions imposed by the law. He submitted that the Petitioner has no vested right to immutable rules as bodies entrusted with professional self-regulation retain inherent authority to refine and strengthen the electoral regime, even close to elections, provided existing nominations are not invalidated retrospectively, which is not the case here. On this basis, he maintained that the amendments made to the Pakistan Legal Practitioners and Bar Councils Rules, 1976, fall squarely within its lawful competence. It is further stated that a Constitutional Petition is not maintainable against the Pakistan Bar Council in view of the judgments of the Supreme Court in the cases of PAKISTAN OLYMPIC ASSOCIATION through President and others v. NADEEM AFTAB SINDHU and others (2019 SCMR 221) and Syed IQBAL HUSSAIN SHAH GILLANI v. PAKISTAN BAR COUNCIL through Secretary, Supreme Court Bar Building, Islamabad (2021 SCMR 425). The learned counsel submits that the amendment in Rule 175-K of Pakistan Legal Practitioners & Bar Councils Rules, 1976 was necessary in the larger interest of the legal profession. The respondents' counsel further explained that, without such a provision, some advocates shifted their votes shortly before elections solely to contest from a desired Bar Association, thereby sidelining long-standing practitioners of that district. The amendment ensures that only those who have genuinely practiced within a district may contest from it and thus promotes fairness and professional integrity. He further stated that the amendments have been applied uniformly nationwide and are not targeted at any province or district. As for the Karachi division is concerned, the requirement could not be applied because there is only one Karachi Bar Association and no separate district-wise associations, making district-based voter restrictions impracticable. The respondents' counsel added that Bar Councils are the primary regulators of the legal profession and that a joint meeting was held with them on 20.08.2025 before the election schedule, in which the amendments were discussed and unanimously approved. He submitted that the Petitioner has not demonstrated any lack of legislative competence, inconsistency with the statute, discrimination, or mala fide, and therefore the petition merits dismissal against PBC.

5. Learned Assistant Attorney General, appearing for respondents No.1 & 2, has supported the stance of the counsel for PBC and submitted that the Pakistan Bar Council, being a statutory and autonomous body, is fully empowered under the Legal Practitioners and Bar Councils Act, 1973, to regulate its internal affairs, including amendments to the Rules. He argued that the impugned amendments were enacted within the statutory framework and do not violate any constitutional provision. The AAG further contended that no fundamental right of the Petitioner

has been infringed, nor has any illegality or *mala fide* been demonstrated. He contended that matters relating to Bar Council elections fall exclusively within the domain of the professional regulatory body and do not warrant interference in constitutional jurisdiction as held by the Supreme Court. Accordingly, he prayed that this petition be dismissed as being devoid of merit.

6. Learned AAG, on court notice, contended that the Pakistan Bar Council is fully empowered under Sections 13(1)(i), 13(1)(d), and 55 of the Legal Practitioners and Bar Councils Act, 1973 to frame and amend the Pakistan Legal Practitioners & Bar Councils Rules, 1976 and that the impugned amendments were made strictly within its lawful authority. He contended that the present Constitutional Petition is not maintainable against the Bar Council in view of the judgments of the Supreme Court reported as PAKISTAN OLYMPIC ASSOCIATION through President and others v. NADEEM AFTAB SINDHU and others and Syed IQBAL HUSSAIN SHAH GILLANI v. PAKISTAN BAR COUNCIL through Secretary, Supreme Court Bar Building, Islamabad supra. He further contended that the amendment to Rule 175-K and the insertion of clause (d) in Section 5-A were introduced to curb the practice of advocates transferring their votes shortly before elections, merely to contest from a particular district, thereby disadvantaging long-standing practitioners. The amendments, according to AAG, have been applied uniformly across the country and are not aimed at any specific district or region; the exception for Karachi is due to the existence of only one Karachi Bar Association and the absence of separate district-wise Bar Associations there, making district-based voter requirements impracticable. Learned AAG prayed for dismissal of the petition.

7. In view of the grounds advanced, the applications moved under Order I Rule 10, CPC by Advocates M/s Mansoor Ahmed Laghari and Muhammad Waseem Shah, bearing Civil Misc. Applications No. 8238 and 8393 of 2025 are allowed. They are accordingly impleaded as parties to the present petition, as the outcome of these proceedings directly affects their legal rights and electoral interests, thereby making their presence necessary for the effective adjudication of the matter. The Petitioner shall file an amended title. The said applicants, while adopting the submissions of learned Assistant Attorney General, learned A.A.G, and learned counsel for the PBC, have opposed the reliefs sought by the Petitioner.

8. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

9. Having considered the preliminary objections, the statutory scheme, and the case law cited at the Bar, the foremost issue requiring determination is whether the present petition challenging the amendments introduced by the

Pakistan Bar Council to Section 5-A(d) of the Legal Practitioners & Bar Councils Act, 1973 and Rule 175-K of the 1976 Rules is maintainable under Article 199 of the Constitution.

10. The governing criteria for this determination are found in Articles 199(1)(a), 199(1)(c), and 199(5) of the Constitution, read in conjunction with the consistent law laid down by Supreme Court, which has clearly outlined the legal status of the Pakistan Bar Council, the nature of its functions and the limited scope of judicial review applicable to its decisions.

11. The Pakistan Bar Council, though established under the Legal Practitioners & Bar Councils Act, 1973, is not a body performing functions “in connection with the affairs of the Federation,” nor does its statutory origin convert it into a public authority amenable to constitutional jurisdiction. The Supreme Court in the cases of Mirza Muhammad Nazakat Baig vs. Federation of Pakistan (2020 SCMR 631) and Syed Iqbal Hussain Shah Gillani v. Pakistan Bar Council (2021 SCMR 425) has conclusively held that the PBC is an autonomous, self-regulatory professional body, independent of Federal or Provincial Government control, funding, or supervision, and does not exercise sovereign or public functions within the meaning of Article 199 of the Constitution. It was further held that neither the PBC nor its committees fall within the writ jurisdiction of the High Courts. Primarily, this Court is bound by that ratio in terms of Article 189 of the Constitution. Consequently, the petitioner’s challenge to amendments made by such a body fails at the very threshold for want of maintainability. The Supreme Court reaffirmed this principle in Pakistan Olympic Association v. Nadeem Aftab Sindhu (2019 SCMR 221), where it articulated the “function test,” holding that a body is not amenable to writ jurisdiction unless it performs sovereign, public, or governmental functions, or the State exercises control, dominance, or financial interest in its affairs. The Court further clarified that statutory origin or public importance alone does not convert an autonomous entity into a public authority. The functions of the Pakistan Bar Council, such as regulating professional standards, overseeing legal practice, supervising Bar Associations, and conducting Bar Council elections, are internal regulatory matters, not sovereign functions of the State. Applying the function test laid down in the Pakistan Olympic Association (supra), the Pakistan Bar Council does not qualify as a public functionary for purposes of judicial review under Article 199 of the Constitution.

12. In this backdrop, we find that the petitioner’s attempt to invoke Article 199 of the Constitution to challenge the amendments introduced by the Pakistan Bar Council is misconceived and fails at the very outset. The Pakistan Bar Council is a sovereign professional body within its statutory domain for the aforesaid purpose. The Supreme Court has categorically held that Bar Councils are autonomous self-regulatory bodies and are not amenable to writ jurisdiction.

In this view of the matter, the petitioners' request for issuance of a writ of mandamus or certiorari is wholly misconceived. It is for the Pakistan Bar Council to consider and decide any grievance if approached by an aggrieved party. The petitioner has produced no material to show that the impugned amendments entail the exercise of sovereign or public authority, or that they originate from a body performing governmental functions to attract Article 199 of the Constitution. Consequently, the constitutional framework does not empower this Court to exercise supervisory jurisdiction over the Pakistan Bar Council's rule-making functions. Even otherwise, and without prejudice to the foregoing conclusion, the petitioner has not demonstrated that he lacks an adequate and efficacious alternate remedy. The Act of 1973 provides a comprehensive statutory framework for addressing grievances of elections, membership, eligibility criteria, the roll of advocates, and disputes arising from Bar Council regulations. Prima facie, the petitioner did not approach any of the available forums, whether the Pakistan Bar Council, its Executive Committee, its Tribunal, or the concerned Provincial Bar Council, before invoking the constitutional jurisdiction of this Court. Extraordinary writ jurisdiction cannot be employed to circumvent statutory mechanisms, and courts are obligated to discourage such bypassing of legislative intent. The petitioner's failure to exhaust the prescribed statutory remedies, therefore, furnishes justification to conclude as discussed supra.

13. Without entering into the merits of the petitioner's challenge regarding the validity or propriety of the impugned amendments, it is sufficient to observe that this Court, having already concluded that the petition is not maintainable under Article 199 of the Constitution in terms of Order dated 10.11.2025 passed by this Court called upon the petitioner to satisfy about the maintainability of the petition in terms of the decisions of the Supreme Court mentioned supra, as such cannot proceed to examine or adjudicate upon the questions of ultra vires, mala fides, discrimination, or the legislative competence of the Pakistan Bar Council. Any such determination would amount to an opinion on matters that fall outside the scope of this Court and may prejudice the rights of the parties before the appropriate forums. All questions relating to the legality, propriety, or correctness of the amendments remain open for consideration before the competent statutory authorities, if the petitioner chooses to avail such remedies. This Court, therefore, refrains from dilating upon these issues.

14. For the reasons discussed above as well as keeping in view the dicta laid down by the Supreme Court, we hold that this petition is not maintainable under Article 199 of the Constitution, as the Pakistan Bar Council and its decisions are not amenable to writ jurisdiction. The petitioner has an alternate statutory remedy, which he is at liberty to avail in accordance with law, if so advised. Accordingly,

the petition is not maintainable and the same stands dismissed accordingly with all pending applications, if any, with no order as to cost.

JUDGE

JUDGE

Sajjad Ali Jessar