

IN THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Muhammad Saleem Jessar

Justice Nisar Ahmed Bhanbhro

CP No.S-5493 of 2025

(Amir v. Province of Sindh and 05 others)

CP No.S-4416 of 2025

(Amir v. Province of Sindh and 08 others)

Petitioner in both petitions in person

M/s. Faizan Memon, Muddasir Abbasi and Sanaullah,
advocates for the respondent No.5

Mr. Hakim Ali Shaikh, Additional Advocate General
Sindh alongwith Mr. Saghir Ahmed Abbasi, Assistant
Advocate General Sindh a/w Mushtaque Ahmed
Garwan, Assistant Director, Agriculture Department
and Mushahid Hussain, Deputy Director (Legal), SPSC

Date of hearing and order : 18.02.2026

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ORDER

NISAR AHMED BHANBHRO, J. Since both the petitions involve common questions of law and fact, we propose to decide them through a single order.

2. The petitioner in both the petitions has sought indulgence of this Court to issue a writ in the nature of quo warranto against the appointment of respondents No.5 & 6¹ as Assistant Engineers in Sports & Youth Affairs Department as well as respondents No.5 to 9² as Assistant Engineers in Agriculture, Supply and Prices Department on the ground that the said appointments have been made in blatant violation of the advertised eligibility criteria, the applicable recruitment rules notified under Rule 3(2) of

¹ CP No.D-5493/2025

² CP No.D-4416/2025

the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, as well as Section 2(1)(xxii) of the Pakistan Engineering Council Act, 1976.

3. Petitioner who is present in person contended that the aforesaid respondents are unlawfully holding and occupying the public posts of Assistant Engineer (Civil) (BS-17) in the Sports & Youth Affairs Department & Agriculture, Supply and Prices Department. He contended that the appointments of the said respondents to the said posts have been impugned in the present proceedings through a writ of quo warranto, not for any ulterior purpose, but solely to uphold the rule of law and to ensure adherence to the principles of good governance, equity, and fair play. It is further submitted that Sindh Public Service Commission (SPSC), pursuant to requisition from Sports & Youth Affairs Department & Agriculture, Supply and Prices Department and in accordance with the prescribed recruitment rules notified, issued Advertisement No. 04/2020 dated 13.07.2020 & 05/2023 dated 10.04.2023, inviting applications for appointment against the said posts; that the eligibility criteria set forth in the said advertisement, inter alia, required a qualification of B.E. in the relevant discipline at least in 2nd Division from a recognized university, coupled with registration as a Professional Engineer with the Pakistan Engineering Council as on the closing date. He further argued that respondent No. 2, acting upon the recommendations of respondent No. 4, proceeded to appoint the said respondents as Assistant Engineers (Civil) (BS-17) in Sports & Youth Affairs Department & Agriculture, Supply and Prices Department. However, to the utter shock and dismay of the petitioner, the said respondents did not possess the requisite qualification of Professional Engineers, thereby rendering their appointments ex-facie illegal and in flagrant violation of the advertised eligibility criteria as well as the prescribed recruitment rules. On these premises, the petitioner prays that the instant petitions be allowed and appointment of the private Respondents be set at naught.

4. Learned Additional Advocate General, assisted by Mr Fiazan Hussain Memon Learned Counsel for the Respondents No 5 & 6 in CPD No 5493 of 2025 and for Respondents No 5 to 9 in CPD No 4416 of 2025 contended that Petition was filed with malicious intentions in order to harass and humiliate the private respondents. He contended that essential ingredients for issuance of writ in the nature of quo warranto viz. bonafides of petitioner and usurpation of public office by the Respondents were lacking in the case. He contended that the Petitioners were appointed through a due process of law

and did not suffer from any disqualification. He prayed for dismissal of the Petition.

5. Heard arguments and perused the material made available before us on record.

6. Scanning of the material available on record revealed that the Sindh Public Service Commission (`SPSC`) through Advertisement No. 04/2020 dated 13.07.2020 & 05/2023 dated 10.04.2023 invited application for recruitment to the post of Assistant Engineers in Sports & Youth Affairs Department & Agriculture, Supply and Prices Department (available at Page-69³ & Paged No.91 to 93⁴).

7. From perusal of the advertisement, the required qualification for appointment to the post of Assistant Engineer was a degree of Bachelor in Engineering at least in 2nd division from a recognized University, and registered as a Professional Engineer with Pakistan Engineering Council (PEC) by the closing date. The petitioner's concern is that the private respondents possessed a Bachelor's degree in the relevant field, but they were registered as registered engineers but not as Professional Engineers with PEC as such, they were not qualified to be appointed as Assistant Engineers, to substantiate his claim, the petitioner has annexed the verification status of the respondents taken from the website of Pakistan engineering Council.

8. Section 2(xxiii) of the PEC Act, defines the Professional Engineer as follows:

"2. (xxiii) "professional engineer" means a person who holds an accredited engineering qualification and after obtaining a professional experience of five years, whether working privately or in the employment of an engineering public organization, has passed the prescribed engineering practice examination and is registered as such by the Council;"

9. The Act places a distinction between a Professional Engineer and a Registered Engineer through Section 2 (xxvii), by defining the Registered Engineer in the following manner:

³ In the Court's file of CP No.D-5493/2025

⁴ In the Court's file of CP No.D-4416/2025

“2 (xxvii) “registered engineer” means a person who holds an accredited engineering qualification, whether working privately or in the employment of an engineering public organization and is registered as such by the Council. Registered Engineer shall perform all professional engineering works except independently signing design;”

10. The above provisions of law, if placed in juxtaposition make it crystal clear that the only difference in between a Registered Engineer and Professional Engineer is that the former cannot independently sign the design of any engineering project. An Engineer gets certificate of professional engineer after gaining the professional experience of 05 years and on passing the prescribed engineer examination to be conducted by PEC. From perusal of the material placed on record, it appears that the respondents had obtained engineering degrees in the different years. On the closing date, for the submission of applications, the respondents had not completed the required period of 05 years in the engineering work; therefore, their registration as Professional Engineers was not possible within the limb of definition of a Professional Engineer codified under PEC Act.

11. From the definition of Professional Engineer and a Registered Engineer envisaged under PEC Act, it is quite evident that both categories of Engineers were allowed to perform Professional Engineering work defined in Section 2(xxv), of PEC Act, which reads as under:

“2.(xxv) “professional engineering work” means the giving of professional advice and opinions, the making of measurements and layouts, the preparation of reports, computations, designs, drawings, plans and specifications and the construction, inspection and supervision of engineering works, in respect of –

(a) railways, aerodromes, bridges, tunnels and metalled roads;

(b) dams, canals, harbours, light houses;

(c) works of an electrical, mechanical, hydraulic, communication, aeronautical power engineering, geological or mining character;

(d) waterworks, sewers, filtration, purification and incinerator works;

(e) residential and non-residential buildings, including foundations framework and electrical and mechanical systems thereof;

(f) structures accessory to engineering works and intended to house them;

(g) imparting or promotion of engineering education, training and planning, designing, development construction, commissioning, operation, maintenance and management of engineering works in respect of computer engineering, environmental engineering, chemical engineering, structural engineering, industrial engineering, production engineering, marine engineering and naval architecture, petroleum and gas engineering, metallurgical engineering, agricultural engineering, telecommunication engineering, avionics and space engineering, transportation engineering, air-conditioning ventilation, cold storage works, system engineering, electronics, radio and television engineering, civil engineering, electrical engineering, mechanical engineering and biomedical engineering etc;

(h) organizing, managing and conducting the teaching and training in engineering universities, colleges, institutions, Government colleges of technology, polytechnic institutions and technical training institutions;

(i) preparing standard bidding or contract documents, construction cost data, conciliation and arbitration procedures; guidelines for bid evaluation, pre-qualification and price adjustments for construction and consultancy contracts; and

(j) any other work which the Council may, by notification in the official Gazette, declare to be an engineering work for the purposes of this Act;

12. Since both the categories of the engineers were competent to engage into professional work, they can equally seek a job involving professional engineering work. The issue of professional engineering work was discussed by the Hon'ble Supreme Court of Pakistan in the case of Maula Bux Shaikh and others v. Chief Minister Sindh and others reported as **2018 SCMR 2098** wherein it was observed that the engineers having a degree in engineering recognized as a professional degree were entitled to do the professional engineering work. In the said judgment, the Hon'ble Supreme Court of Pakistan, however, observed that the appointment in civil service was the domain of the Government under the provisions of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, as such, their appointment and promotion were not falling under the domain of the Pakistan Engineering Council Act, to say that a particular academic qualification can be equated with another academic qualification and Pakistan Engineering Council has no power to place any restriction on

promotion of any civil servant to next higher grade. For the sake of convenience, Para No 20 of Maula Bux's case is reproduced as under:

“20. Further, the main principle that is deductible from the above judgments of this Court is that it is the domain of the Government to decide whether a particular academic qualification of a civil servant/ employee is sufficient for promotion from one grade to another higher grade and whereas it is in the domain of the Pakistan Engineering Council to decide whether a particular academic qualification can be equated with another academic qualification but it has no power to say that the civil servants /employees holding particular academic qualification cannot be promoted from a particular grade to a higher grade. Thus; on the basis of above pronouncements of this Court, it is clear that the notification dated 19.03.2014 cannot be validly or justifiably challenged on the ground that it impinges or infringes upon any of the provisions of PEC Act, 1976 and thus would be ultra vires. No such finding can justifiably be recorded in that as it has been laid down quite empathetically that the government exercises its own power under the domain of law with regard to promotion of civil servants/employees under Sindh Civil Servants Act, 1973 and Rules made thereunder while PEC Act does not overreach or put an embargo upon the government in the matter of prescribing of qualification and other conditions of service of civil servants/employees for their-promotion to higher grade. Yet again, we note that although the vires of notification dated 19.03.2014 has been challenged but we observe that this very notification has been issued under sub-rule (2) of Rule 3 of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, which rules have been made under section 26 of Sindh Civil Servants Act, 1973. Neither rule 3(2) of said rules nor section 26 of the Act, 1973 have been challenged nor their vires called in question before us. Thus; from this also it is quite apparent that the petitioner does not challenge the government power for prescribing qualification and conditions of service of civil servants/employees for their promotion to higher grade. In any case, we note that the provisions of PEC Act nor the rules and regulations made under it will operate as bar on government to prescribe for qualification and other conditions of service of civil servants/employees for promotion to higher grade.”

13. The appointment, promotion and transfers were the internal affairs of the administrative department, and it is within their domain to prescribe the method, criteria and qualification for appointment or by way of promotion or through initial appointment. The Sindh Civil Servants Act, 1973 and the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, (APT Rules) are governing legislation relating to the appointment, promotion and transfer. Rule 3 of the APT Rules empowers the administrative department to determine the method of appointment, either by initial appointment or by promotion, in consultation with the Services and General Administration Department, Government of Sindh. Such powers are general in nature and not fettered to any condition prescribing the manner in which the method, qualification for appointment are to be determined.

14. As discussed supra, the appointments, promotions, and transfers are internal affairs of the administrative department, and it is within their prerogative and dominion to prescribe methods, criteria and qualification for appointment by way of promotion or through initial appointment. It is for the department to determine the eligibility criteria for a particular post, as the concerned department knows about the work intended to be done by the incumbent officer. The delegation of powers for subordinate legislation strengthen the Institutional Autonomy, and respect for such autonomy is the cornerstone and spirit of constitutional governance, which must be maintained by all organs, including the courts.

15. The petitioner has sought indulgence of this Court to issue a writ in the nature of quo warranto on the ground that the respondents were not Professional Engineers. When confronted as to the bonafide of filing of this petition, the petitioner candidly conceded that he was a student of law and was actively pursuing the rights of the people and being a citizen of the province of Sindh it was his fundamental right to have good governance. A writ of quo warranto is maintained to settle the legality of holder of a statutory or commercial office and to decide whether he was holding such public office in accordance with the law or against the law. When confronted about the illegality in the appointment of the respondents, the petitioner demonstrated that the respondents were not registered as Professional Engineers with the Pakistan Engineering Council. No doubt, in the Advertisement No. 04/2020 dated 13.07.2020 & 05/2023 dated 10.04.2023, it is mentioned that an aspirant/ candidate should be registered as

Professional Engineer with the Pakistan Engineering Council, however no distinction can be made in the qualification of a professional and registered engineer. Even otherwise under the law there was no difference in between a Professional Engineer and Registered Engineer, as such appointment of an Engineer who is enrolled as Registered Engineer with PEC cannot be declared illegal on the ground that he lacked requisite qualification.

16. To lay the claim for issuance of writ of quo warranto, the petitioner has to satisfy the Court, inter alia, that the office in question is a public office and it is held by usurper without lawful authority and the petitioner is not having any special kind of interest against the alleged usurper and he being a member of the public was acting under bonafide. Once this junction is crossed by the petitioner, then the Court will proceed further to make an inquiry as to whether the appointment of the alleged usurper has been made in accordance with the law or not.

17. It appears from the record that the petitioner is permanent resident of Balochistan and he is residing in Karachi in pursuit of his education in the field of law. It further transpires from the record that the petitioner filed a similar petition bearing CP No.D-6291 of 2025 against the appointments made in the School Education and Literacy Department on similar grounds as agitated in the present petition which too was dismissed. The frequent filing of the petitions against appointments demonstrated the interest of the relator that he intended to pressurize the appointees for his personal interest, as has been usually complained by the members of society against the legal fraternity. The frequent filing of the petitions by the petitioner aimed nothing but to harass the fresh appointees, this act of the Petitioner tantamount to stain the noble profession of law, coupled with the fact that the petitioner being a permanent resident of the Province of Balochistan has failed to demonstrate his bonafide for filing of writ petitions for the enforcement of good governance in the Province of Sindh. The view rendered above finds support from the judgment of Hon'ble Supreme Court of Pakistan in the case of JAWAD AHMAD MIR Versus Prof. Dr. IMTIAZ ALI KHAN, VICE CHANCELLOR, UNIVERSITY OF SWABI, DISTRICT SWABI, KHYBER PAKHTUNKHWA and others, reported as 2023 SCMR 162.

18. The petitioner has failed to demonstrate that the respondents were holding the public office without any lawful authority and they did not possess the requisite qualification for doing the professional work as

observed in the case of Maula Bux (supra). The petitioner has failed to demonstrate sufficient grounds for issuance of a writ in nature of quo warranto viz-a-viz that the holder of public office did not possess the prescribed qualification, the appointing authority is not a competent authority to make the appointment and the prescribed procedure of law has not been followed. On the contrary, the respondents have been appointed through SPSC, they held the requisite professional degrees and were registered with Pakistan Engineering Council and were entitled to do professional work defined in the PEC Act.

19. In the wake of above discussion the petitioner has failed to make out a case for indulgence of this Court under its equitable writ jurisdiction. Consequently these petitions fail and accordingly dismissed with pending application(s) if any.

20. Office to place signed copy of the order in the connected petition.

JUDGE

JUDGE

HEAD OF CONST. BENCHES

Nadir/PS*