

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Riazat Ali Sahar

C.P. No.D-1369 of 2025

[Citizens' Cooperative Housing Society Ltd v. Province of Sindh & others]

Petitioner: Citizens' Cooperative Housing Society Limited through Mr. Muhammad Humayon Khan, Advocate assisted by M/s. M.M. Taha Khan, Kashif Majeed and Ms. Bakhtawar Naz Shah, Advocates.

Respondents No.1to4: Province of Sindh and others through Mr.Rafique Ahmed Dahri Assistant A.G. Sindh.

Respondent No.4A: Engineer Abdul Qadir Soomro through Mr. Abdul Rahim Lakho, Advocate.

Date of hearing: 20.11.2025

Date of Judgment: 20.11.2025

J U D G M E N T

RIAZAT ALI SAHAR, J: - Through instant petition, the petitioner has sought following reliefs:-

- i. Declare that the impugned Letters dated 30-06-2025, 04-07-2025 and 07-07-2025 issued by the Respondent No. 4/4A as well as the Order dated 26-06-2025 issued by the Respondent No. 2 are all illegal, unlawful, null and void ab initio, and of no legal effect whatsoever;
- ii. Direct the Respondents to forthwith comply with the requirements of ss. 12 and 13 of the Cooperative Societies Act, 2020, r. 9 of the Cooperative Societies Rules, 2020, and the By Laws of the Petitioner to hold free and fair internal elections of the society, and, for that purpose, further appoint any competent officer of this Court as Commissioner to supervise and oversee the conduct of the elections;

- iii. Appoint any officer of this Court as Commissioner to conduct an impartial inquiry into the operations of the Petitioner during the tenure of Administrators and to deliver a detailed report as to the disposal of amenity plots and management of financial and administrative affairs of the Petitioner under such administrators;
- iv. Restrain the Respondents, their servants, factors, agents and all those claiming through or under them from taking any coercive action against the Petitioner, including, inter alia, conducting the inquiry so initiated, appointing any administrator, seizing the bank accounts of the Petitioner, or taking any other action which may amount to interfering the affairs of the Petitioner in any manner whatsoever, pending decision of this Petition and thereafter;
- v. Grant the costs of this petition;
- vi. Grant any other relief(s) deemed fit and proper in the circumstances of this case.

2. Briefly stated, the facts of the petitions are that the Petitioner is a cooperative housing society duly registered under the Cooperative Societies Act, 2020 ("Act") and the Cooperative Societies Rules, 2020 ("Rules"), with its By-Laws approved by Respondent No. 2. The Society was originally registered on 13.08.1966 under Registration No. D/Hyd/1738 and presently comprises approximately 331 residential units along with several amenity plots, including: (i) a cinema plot measuring 4,190 sq. yds.; (ii) 0.30 acres reserved for graveyard purposes out of Survey No. 73/5; (iii) a Model Bungalow measuring 400 sq. yds.; and (iv) 120 sq. yds. of land adjacent to the Society office used for storage and nursery purposes. The Petitioner is governed by the Act, the Rules, and its By-Laws; the Respondents, being provincial authorities, are required to supervise the Society strictly in accordance with law. However, from 2010 to 2016, the Respondents repeatedly interfered in the Society's affairs by appointing a series of administrators who, according to the Petitioner, acted with mala fides and caused substantial financial and administrative losses. These included: (i) the illegal subdivision and disposal of the cinema plot in 2012; (ii) unlawful leasing of graveyard land and sale of the Model Bungalow in 2014; and (iii)

unauthorized allotment of 120 sq. yds. of land and withdrawal of Rs.11,127,065/- from the Society's accounts in 2014–15. Litigation arising from these actions remains pending and no corrective measures were taken by the Respondents. Due to these irregularities, members of the Society filed C.P. No.D-2367/2015 before this Court, resulting in the restoration of an elected managing committee through Court-supervised elections. The present managing committee was elected unopposed in 2021 and duly notified on 15.04.2021. In 2022, the Respondents again initiated steps allegedly aimed at delaying elections and imposing an administrator, compelling the Society to file C.P. No.D-3430/2022. Elections were thereafter held under the supervision of an officer of this Court. Despite this, on 06.11.2023, Respondent No. 2 initiated an inquiry based on unspecified complaints and directed the blocking of the Society's bank account, which was later reversed. Upon the Society's reply, the inquiry was placed in abeyance on 02.05.2024. In June 2025, the Respondents revived the same inquiry through Letter dated 30.06.2025 and Order dated 26.06.2025, again demanding documents. The Society sought reasonable time due to upcoming Ashura holidays and simultaneously nominated members for conducting elections as required by law. Respondent No. 4/4A, however, refused the request for time and further declined to permit elections, effectively assuming the functions of Respondent No. 3 without lawful authority. Additional letters were issued on 04.07.2025 and 07.07.2025. The Petitioner submitted a comprehensive reply on 12.07.2025, denying allegations, furnishing documents and requesting that elections be held as mandated by the Act, Rules and By-Laws. The conduct of the Respondents, particularly Respondent No.4/4A, indicates an attempt to obstruct lawful elections and to impose an administrator under the guise of an inquiry. Hence, the petitioner filed instant petition.

3. Notices were issued to the respondents and they filed their objections/comments wherein they raised several preliminary objections to the maintainability of the petition. They stated that the Petitioner has neither a valid cause of action nor approached the Court with clean hands, having concealed material facts and relied upon incorrect and fabricated documents. They stated that the petition is barred by limitation, suffers from mis-joinder and non-joinder of necessary parties, constitutes an abuse of the process of Court and improperly invoked the constitutional jurisdiction, which cannot be exercised to grant declaratory

or injunctive relief in the circumstances as pleaded. The Respondents stated that no *prima facie* case or balance of convenience exists in favour of the Petitioner. They also stated that the Society was registered in 1966 and remained under various Administrators after its supersession in 2010, all appointed lawfully under statutory authority. Upon supersession, all transactional correspondence was handled through the Sindh Cooperative Housing Authority and the Department lacks record of transactions executed during that period. The Respondents further stated that numerous statutory violations and managerial irregularities have been committed by the Petitioner's management, including non-availability and fabrication of original By-laws, failure since 2015 to revive proper functioning or retrieve official records, lack of an approved layout plan, illegal expulsion of a managing committee member, misuse of graveyard land, unauthorized monetary withdrawals, failure to conduct audits or publish balance sheets, imposition of unauthorized fees, non-submission of financial statements, excess cash retention, failure to maintain mandatory registers, non-compliance with beneficial ownership requirements, failure to amend By-laws as required under the Sindh cooperative Societies Act, 2020 and expenditure of funds without approved plans or clear title. The Respondents also stated that the inquiry initiated on 26.06.2025 under Section 55 (1) of the Sindh Cooperative Societies Act, 2020 was lawful, intended solely to examine the Society's affairs and that elections and inquiry proceedings are parallel statutory functions. They denied all allegations of *mala fide*, collusion or attempts to impose an Administrator, stating that the Petitioner's claims are based on assumptions and unsupported assertions. Hence, the respondents denied the version of the petitioner.

4. Learned counsel for the Petitioner contended that the impugned inquiry has been initiated without jurisdiction, malafide and with the sole object of interfering in the lawful functioning and upcoming elections of the Society. He contended that the Society is duly registered, functioning under its approved By-laws and that no statutory ground existed for invoking Section 55 of the Sindh Cooperative Societies Act, 2020. He further contended that the Department acted in collusion with certain private individuals to create artificial disputes and destabilize the elected management. He contended that the inquiry notice is vague, unsupported by any complaint and amounts to harassment. He prayed

that the inquiry be declared illegal and the respondents restrained from interfering in the Society's affairs.

5. Learned A.A.G. Sindh contended that the inquiry is strictly within statutory mandate and was initiated to examine serious allegations of financial and administrative irregularities. He contended that the Petitioner, being custodian of public records, is bound to cooperate and no prejudice is caused by a lawful inquiry. He contended that elections and inquiry can proceed simultaneously and that the petition is based on unfounded assumptions. He therefore prayed for dismissal of the petition.

6. Learned counsel for Respondent No.4A supported the stance of the official respondents and contended that the Petitioner's management has committed numerous irregularities, including unauthorized financial transactions, misuse of Society land and failure to maintain statutory records. He contended that the Petitioner is attempting to obstruct accountability by challenging a lawful inquiry. He further contended that members of the Society have repeatedly complained about mismanagement, necessitating departmental action. He also contended that the petition is misconceived, frivolous and filed only to avoid scrutiny and therefore liable to be dismissed with costs.

7. We have heard the learned counsel for the petitioner, learned Additional Advocate General Sindh and learned counsel for respondent No.4A and have carefully examined the material available on record.

8. From the pleadings and documents placed before us, certain aspects stand out and require determination. The statutory framework governing cooperative societies under the Sindh Cooperative Societies Act, 2020 and the Rules of 2020 clearly envisages democratic governance, periodic elections, financial transparency and supervisory oversight by the competent authority. While the Respondents undoubtedly possess supervisory jurisdiction, such authority must be exercised strictly in accordance with law and cannot extend to arbitrary interference in the internal affairs of the Society or frustrate the holding of elections mandated under the Act, Rules and duly approved By-laws.

9. The material reflects that the Petitioner Society has been preparing to hold its internal elections under Sections 12 and 13 of the Act and Rule 9 of the Rules. The record further shows that the Petitioner duly nominated its election committee members and communicated with the concerned office for scheduling elections. On the other hand, the Respondents revived an earlier inquiry, purportedly under Section 55 (1) of the Act, through the impugned Letters dated 30.06.2025, 04.07.2025 and 07.07.2025 as well as Order dated 26.06.2025. The Petitioner has seriously questioned the legality of such actions, asserting that neither the inquiry is supported by any specific written complaint nor was any reasonable opportunity or time afforded.

10. The Respondents contended that the inquiry is lawful that the Petitioner has committed multiple irregularities and that the inquiry does not obstruct elections. However, the correspondence placed before us indicates that Respondent No.4/4A not only declined the Petitioner's request for reasonable time but also refused to entertain the Petitioner's election-related communication, thereby assuming the role of Respondent No.3 without jurisdiction. Such conduct, in our view, *prima facie* reflects overreach and an attempt to interfere in a process that the law entrusts to the Society itself, unless specific statutory grounds exist for supersession or intervention, none of which have been demonstrated on record.

11. It is settled law that supervisory powers must be exercised with due regard to Articles 4 and 10-A of the Constitution, ensuring fairness and transparency. Any inquiry that materially affects the autonomy or electoral process of a cooperative society must be supported by lawful authorization, clear grounds, notice and meaningful opportunity of response. The impugned letters and order, however, do not disclose any definite allegations, nor do they satisfy the threshold of a lawful inquiry under Section 55 of the Act. Moreover, the record shows that the inquiry had earlier been placed in abeyance on 02.05.2024 after the Society submitted its reply.

12. It has also emerged that Respondent No.4/4A attempted to interfere with or obstruct the holding of elections by declining the Society's request for time and by issuing multiple communications in short succession without demonstrating statutory authority for doing so. Such actions not only lack transparency but also challenge the spirit of

cooperative governance enshrined in the statute. If elections are delayed, hindered or manipulated by administrative interference, the very foundation of a democratic cooperative system stands eroded.

13. In these circumstances, we find that the impugned Letters dated 30.06.2025, 04.07.2025 and 07.07.2025 issued by Respondent No.4/4A as well as the Order dated 26.06.2025 issued by Respondent No.2, suffer from legal infirmities inasmuch as they neither disclose any statutory grounds nor reflect compliance with the procedural safeguards prescribed under the Sindh Cooperative Societies Act, 2020, the Rules framed thereunder and the duly approved By-laws of the Society. Accordingly, the same cannot be sustained. For the reasons discussed hereinabove, the impugned letters and order are declared to have been issued without lawful authority, being arbitrary, devoid of jurisdiction and of no legal effect. The Respondents are, therefore, directed to forthwith refrain from interfering in the internal affairs of the Petitioner Society, including but not limited to its election process, banking operations and administrative functioning. Furthermore, in view of the discussion made hereinabove, it has clearly emerged that the impugned actions complained of, including the issuance of vague inquiry letters, refusal to afford reasonable time and interference in the statutory election process, are not supported by any lawful justification under the governing statute. The statutory framework mandates that any supervisory action must be exercised strictly in accordance with law and never in a manner that obstructs delays the democratic functioning of a cooperative society. Where interference is premised upon assumptions, unsupported allegations or an inquiry lacking foundational compliance, such actions cannot be allowed to stand. The conduct of the Respondents, particularly Respondent No.4/4A, thus reflects procedural irregularity and administrative overreach, warranting judicial intervention to restore transparency, uniformity and adherence to the statutory mandate.

14. Accordingly, the **Cooperation Department, Government of Sindh, acting strictly through its Secretary, is hereby directed to appoint an independent, efficient and honest officer of the Cooperative Department, not below the rank of BPS-17, to act as Administrator solely for the limited purpose of overseeing the preparatory electoral process of the Petitioner Society within a period of three months.** The appointment shall be made strictly in

accordance with the Department's **Notification dated 21.08.2025** issued by the Cooperative Department, which clearly lays down operative SOPs governing appointment of Administrators, emphasizing **(a) preference to officers of the Cooperative Department and (b) limited tenure of three to six months**. These SOPs were issued by the very department entrusted and therefore must carry significant persuasive weight in ensuring uniformity, transparency and avoidance of arbitrary appointments. Upon appointment, the Administrator shall immediately undertake the task of preparing a comprehensive, updated and accurate list of *bona fide* voters/members of the Society, by verifying membership records, rectifying discrepancies, inviting objections and ensuring inclusion of all eligible members and exclusion of all ineligible persons. The exercise shall be carried out strictly in accordance with the Sindh Cooperative Societies Act, 2020, the Rules framed thereunder and the approved By-laws of the Society. After completion of the above preparatory exercise, the Administrator shall proceed to **organize and conduct elections** of the Managing Committee of the Society strictly in terms of the governing statute, rules and by-laws.

15. To ensure neutrality, transparency and uniformity, it is further directed that the **entire process of election, comprising verification and publication of the voters' list, nomination and scrutiny, polling, counting and declaration of results, shall be conducted under the direct supervision of Mr. Ghufraan Saboor, Assistant Registrar of this Court**, who shall act in a purely supervisory and independent capacity. The entire electoral exercise shall be completed within a period of **three (03) months**. Upon successful completion of the elections, the Administrator shall forthwith hand over complete charge to the duly elected Managing Committee without any delay, obstruction or reservation. In recognition of the additional judicial responsibility to be undertaken by the Assistant Registrar of this Court, remuneration in the sum of **Rs.200,000/- (Rupees Two Hundred Thousand only)** is fixed, which amount shall be deposited in advance by the Petitioner Society with the Assistant Registrar prior to the commencement of the election process. The Administrator, Assistant Registrar and all concerned shall ensure strict compliance with these directions so that the lawful, democratic and transparent functioning of the Society stands restored without further delay.

16. Insofar as the Petitioner's prayer for appointment of a Commissioner to inquire into the past actions of former Administrators, we observe that such matters pertain to factual controversies requiring detailed evidence, which ordinarily does not fall within constitutional jurisdiction. However, the Petitioner is at liberty to avail appropriate remedy before the competent authority, which shall proceed strictly in accordance with law.

17. The petition stands **disposed of** in the above terms, along with pending application(s), if any.

JUDGE

JUDGE