

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Before:

Justice Arbab Ali Hakro-J

Justice Muhammad Jaffer Raza-J

C.P No.D-260 of 2026

[Anwer Aleem v. Province of Sindh and 02 others]

Petitioner : Anwer Aleem s/o Abdul Aleem Khan
Through Mr.Muhammad Ali Lakhani, Advocate

Respondents No.1 to 3 by : Mr.Muhammad Sharif Solangi, Assistant A.G
Sindh a/w Rafiq Ahmed Memon on behalf of
Respondent No.2 and Asad Ali Mirani, Deputy
Director A.C.E, Mirpurkhas and Dilip Kumar,
Investigation Officer

Intervener : Dr.Syed Muhammad Alamdar Raza,
performing duties as Chairman, BISE,
Mirpurkhas, through authorised representative
Muhammad Hanif s/o Muhammad Rasheed,
Assistant BISE, Mirpurkhas
Through Mr.Sarmad Sattar, Advocate

Date of hearing : 21.04.2026, 30.04.2026

Date of Decision : 07.05.2026

ORDER

ARBAB ALI HAKRO J: - Petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, assailing the initiation and continuation of an inquiry undertaken by the Sindh Anti-Corruption Establishment (ACE) through its Deputy Director at Mirpurkhas.

2. The factual canvas, as unfolded through the pleadings, reveals that the Petitioner has approached this Court invoking its constitutional jurisdiction, asserting that the machinery of the Anti-Corruption Establishment has been set in motion against him in a manner wholly alien to the statutory architecture governing its remit. The Petitioner maintains that the impugned inquiry is not merely irregular in form but is vitiated at its very inception, being bereft of lawful sanction, tainted with malice and actuated by considerations extraneous to the

purposes contemplated under the Sindh Enquiries and Anti-Corruption Act, 1991.

3. The genesis of the controversy lies in FIR No.03 of 2026, registered at Police Station Town, Mirpurkhas, under Sections 34, 419, 420 and 506(ii) of the Pakistan Penal Code. The Petitioner is admittedly not nominated therein, nor is any allegation in the FIR directed towards him. The FIR concerns accusations by one Shahzaib, who alleged that an individual, Humayun Mustafa, impersonating an official of Military Intelligence, extracted a sum of Rs.650,000/- from him on the pretext of securing a government appointment. Upon failure to honour the promise, the complainant demanded restitution and was allegedly threatened with dire consequences.

4. During the course of investigation, the arrested accused purportedly named certain individuals, including one Falak Sher, whom he described as an intermediary associated with the Board of Intermediate and Secondary Education, Mirpurkhas. It is further alleged that the Petitioner, serving as Controller of Examinations, facilitated the enhancement of marks in exchange for pecuniary benefit. These allegations, though untested and uncorroborated, prompted the Senior Superintendent of Police, Mirpurkhas, to issue a communication dated 23.02.2026 to the Chairman, Anti-Corruption Establishment, recommending the initiation of an inquiry against officials of BISE Mirpurkhas.

5. The Petitioner asserts that the allegations are a contrivance, engineered to malign him and to reopen matters already adjudged by competent authorities. He avers that the Chairman ACE, acting precipitously and without jurisdiction, tasked the Investigating Officer to embark upon an inquiry into matters that had already been scrutinised and conclusively determined by departmental committees constituted under the authority of the Chairman BISE Mirpurkhas.

6. The record demonstrates that two separate committees had earlier been constituted by Chairman BISE Mirpurkhas. The first, notified on

13.10.2025, examined the examination processes and returned a finding on 25.10.2025, confirming the absence of discrepancies or irregularities. The second committee, notified on 16.02.2026, again summoned the Petitioner and other officials, scrutinised the relevant record and exonerated all concerned, concluding that allegations of manipulation, forgery or malpractice were unfounded.

7. Notwithstanding these findings, the ACE Investigating Officer conducted a surprise visit at BISE Mirpurkhas and seized examination records for the years 2023 to 2025. Thereafter, the IO issued a notice under Section 160 Cr.P.C. to the Petitioner, not for matters arising out of FIR No.03 of 2026, but for probing into his induction, appointment, service progression, foreign travel, assets and other matters wholly extraneous to the FIR and beyond the statutory remit of ACE. The Petitioner contends that such an inquiry constitutes a roving and fishing expedition, which is impermissible under the law.

8. The Petitioner responded to the notice, placing on record that his appointment was made pursuant to a public advertisement, that he fulfilled all recruitment modalities and that earlier inquiries, including those conducted by the National Accountability Bureau, had exonerated him of similar allegations. He maintains that the present inquiry seeks to reopen settled matters, thereby offending the doctrine of double jeopardy and the principle of finality attached to concluded proceedings.

9. The Petitioner further relies upon the Minutes of the Provincial Anti-Corruption Committee meeting held on 07.11.2023, wherein it was resolved that ACE lacks jurisdiction over employees of the Universities and Boards Department. According to the Petitioner, the said resolution remains operative and binding, rendering the impugned inquiry ultra vires and devoid of statutory authorisation.

10. Respondent No.3 has filed comments, controverted the Petitioner's assertions and alleged that the Petitioner is involved in corruption, manipulation of examination records, issuance of fake certificates and other

unlawful activities. It is asserted that a surprise visit was conducted on 25.02.2026, during which substantial quantities of official records were seized, including two school seals and two versions of the Intermediate Gazette for 2023, one genuine and one allegedly fabricated. Respondent No.3 further claims that a forensic examination of BISE computer systems revealed thousands of instances of mark tampering for the years 2024 and 2025, as well as "direct cases" from 2021 to 2025. It is alleged that the Petitioner operated a structured scheme involving the upgradation of grades, the passing of failed candidates, the issuance of fake certificates, and other corrupt practices. The comments also state that the Petitioner has been suspended and subsequently dismissed from service by the Controlling Authority and that the instant petition has become infructuous. It is further alleged that the Petitioner has a history of misconduct, including allegations of selling answer sheets.

11. An application under Order I Rule 10 CPC has been filed by the Chairman BISE Mirpurkhas, seeking impleadment as Respondent No.4. The applicant contends that the Petitioner has suppressed material facts, including alleged deficiencies in his initial appointment. It is asserted that the Petitioner did not meet the requisite qualifications or experience prescribed in the recruitment rules and that his appointment was facilitated by his father, who was then serving as Chairman BISE Mirpurkhas. The applicant further asserts that the Petitioner remained absent from duty for prolonged periods, that incriminating material, including school seals and dual gazettes, was recovered from his office, and that an internal inquiry conducted on 19.02.2026 found approximately 3009 results to be bogus or manipulated, allegedly implicating the Petitioner and other officials. It is averred that his impleadment is necessary to assist the Court and to avoid multiplicity of proceedings.

12. Learned counsel for the Petitioner contended that the entire inquiry undertaken by ACE is a jurisdictional nullity, as the Petitioner does not fall within the contemplation of "public servant" under Section 21 PPC, and that

the deeming clause in Section 26 of the Sindh Boards Ordinance, 1972, cannot enlarge the remit of ACE beyond the statutory confines of the Sindh Enquiries and Anti-Corruption Act, 1991. He further submits that a deeming declaration does not ipso facto confer prosecutorial or inquisitorial jurisdiction. It is urged that the ACC-I resolution dated 07.11.2023 expressly divested ACE of authority over employees of the Universities and Boards Department and that the letter dated 23.02.2026, forming the substratum of the impugned inquiry, cannot override such binding determination. Learned counsel further argued that FIR No.03/2026 contains no allegation against the Petitioner, that the statements of co-accused recorded under Section 164 Cr.P.C. are legally inconsequential without corroboration and that the Petitioner has already been exonerated in earlier inquiries, including those conducted by NAB, thereby rendering the present proceedings a prohibited reopening of concluded matters and a manifest instance of harassment. In support of his contentions, he relied upon case law reported as PLD 1960 Dacca 1049, PLD 1980 Lahore 597, PLD 1985 Karachi 720, PLD 2004 Karachi 109, 2023 PLC (CS) 464 and PLD 1989 Karachi 404.

13. Learned Assistant Advocate General Sindh, supporting the stance of ACE, submitted that employees of BISE Mirpurkhas are expressly declared to be public servants under Section 26 of the Sindh Boards of Intermediate and Secondary Education Ordinance, 1972, read with Section 2(vi) of the ACE Act, thereby vesting ACE with full statutory competence to inquire into allegations of corruption, manipulation of public records, and misuse of authority; it is argued that the material emerging from the investigation of FIR No.03/2026, coupled with the surprise visit of 25.02.2026, disclosed grave irregularities, including recovery of dual gazettes, school seals, and seized examination records. Learned A.A.G. emphasised that the forensic report obtained from Basecamp IT Solutions revealed thousands of instances of mark tampering for the years 2024 and 2025, as well as direct-case manipulations from 2021 to 2025, constituting independent scientific evidence warranting continuation of

the inquiry. It is further submitted that the Petitioner has since been suspended, dismissed from service and nominated in a subsequent ACE FIR registered with the approval of ACC-I, thereby rendering the present petition infructuous.

14. Learned counsel for the intervener aligned himself with the submissions advanced by the learned A.A.G, adopting the position that the Anti-Corruption Establishment is lawfully seized of the matter and further reiterated, in substance, the very grounds articulated in the application under Order I Rule 10 CPC.

15. Heard and minutely perused the record.

16. The Petitioner has invoked the constitutional jurisdiction of this Court under Article 199, primarily to seek quashment of an inquiry initiated by ACE based on FIR No.03 of 2026 registered at P.S. Town, Mirpurkhas and the letter dated 23.02.2026 issued by the Senior Superintendent of Police, Mirpurkhas, recommending action against officials of the Board of Intermediate and Secondary Education, Mirpurkhas (BISE). He further seeks protection against any coercive measures, including continuation of the inquiry, summoning, detention, or prosecution. The challenge is premised on the alleged lack of jurisdiction of ACE, the alleged absence of a lawful sanction, and the alleged mala fides.

17. It is settled that while this Court, in exercise of its constitutional jurisdiction, may intervene where proceedings are ex facie without jurisdiction, malafide in law, or in abuse of process, it does not ordinarily stifle statutory mechanisms of inquiry and investigation, particularly where the legislature has created a specialised agency and a structured scheme for dealing with allegations of corruption and misconduct. The threshold, therefore, is whether the impugned proceedings are demonstrably ultra vires or so patently devoid of legal foundation that they cannot be permitted to continue.

18. The first limb of the Petitioner's case is that he is not a "public servant" within the contemplation of the Sindh Enquiries and Anti-Corruption Act, 1991

and that ACE, being a creature of statute, cannot travel beyond the four corners of its enabling law. Section 2(vi) of the said Act defines "public servant" to mean a public servant as defined in Section 21 of the Pakistan Penal Code or declared as such under any law for the time being in force.

19. Section 26 of the Sindh Boards of Intermediate and Secondary Education Ordinance, 1972, in unambiguous terms, declares that members of the Board, committees constituted under the Ordinance, employees of the Board, and other persons appointed for carrying out the purposes of the Ordinance "shall be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code". The Petitioner, by his own showing, has been serving as Controller of Examinations, BISE Mirpurkhas, and thus squarely falls within the class of persons statutorily deemed to be public servants. The argument that such deeming does not operate for purposes of the ACE Act is misconceived; the ACE Act itself incorporates, by reference, persons "declared as such under any law for the time being in force". The two provisions, read conjunctively, leave no room for doubt that employees of BISE are public servants for purposes of ACE jurisdiction.

20. The reliance placed by learned counsel for the Petitioner on general expositions of Section 21 PPC to argue that a deeming clause cannot enlarge ACE jurisdiction is misplaced in the face of the express language of Section 2(vi) of the ACE Act and Section 26 of the Boards Ordinance. Where the legislature has, in one statute, declared a class of persons to be public servants and in another statute has extended its operation to all persons so declared, the Court cannot read in a limitation that the legislature has consciously omitted. The statutory scheme is internally coherent and mutually reinforcing.

21. The order dated 10.05.2022, passed in C.P. No.D-6163 of 2021 by the Division Bench of this Court at Principal Seat Karachi, is also instructive. There, the Petitioner, a private person, had questioned ACE's jurisdiction on the ground that he was not a public servant. The Divisional Bench, after

examining Section 3 and the Schedule to the West Pakistan Anti-Corruption Establishment Ordinance, 1961 and the Sindh Enquiries and Anti-Corruption Act, 1991, held that ACE's domain extends not only to public servants but also to any person who has acted jointly, abetted, or conspired with a public servant in the commission of scheduled offences and that such a person may be subjected to enquiry and investigation. The present case stands on a stronger footing, as the Petitioner is not merely a private person associated with a public servant, but himself a statutorily deemed public servant.

22. The Petitioner has placed considerable emphasis on the Minutes of the Provincial Anti-Corruption Committee (ACC-I / PACC) meeting held on 07.11.2023, wherein it was resolved, inter alia, that matters relating to Universities and Boards be referred to the Secretary, Universities and Boards Department, for devising SOPs and that, if any wrongdoing within the parameters of ACE jurisdiction surfaced, the matter could be referred back for action under the ACE Rules, 1993. The Petitioner reads this as a blanket ouster of ACE jurisdiction over employees of the Universities and Boards Department.

23. We are unable to endorse such a construction. The resolution, read fairly, does not purport to amend, repeal or suspend the ACE Act or its Schedule. It is, at best, an administrative policy direction that regulates how complaints are to be processed and coordinated between the Department and ACE. An administrative resolution cannot override or curtail a statutory mandate. The ACE Act continues to operate with full vigour, and any internal arrangement between the Department and ACE cannot be elevated to a jurisdiction-ousting instrument. To hold otherwise would be to permit an executive committee to neutralise an Act of the Provincial Legislature, which is impermissible in constitutional theory.

24. The letter dated 23.02.2026, issued by the SSP Mirpurkhas, recommending that ACE take cognisance of illegal activities surfaced during the investigation of FIR No.03 of 2026, is merely a triggering communication.

It neither confers jurisdiction where none exists nor detracts from jurisdiction where the statute confers it. Once the statutory preconditions are satisfied i.e the subject matter falls within the Schedule and involves a public servant or a person acting in concert with a public servant, ACE is competent to hold a preliminary enquiry. The Petitioner's attempt to convert the ACC-I resolution and the SSP's letter into jurisdictional fetters is, therefore, misconceived.

25. The Petitioner has also invoked the doctrine of double jeopardy and the principle of finality, relying on earlier departmental enquiries and NAB proceedings which, according to him, culminated in his exoneration. The record shows that BISE Mirpurkhas had, on earlier occasions, constituted committees to examine allegations relating to examination processes, and that such committees returned findings in favour of the Petitioner and other officials. It is also borne out that NAB enquiries concerning his appointment and related matters were closed and that this Court had, in that context, disposed of petitions.

26. However, the present proceedings are qualitatively distinct. The departmental committees were internal administrative mechanisms that examined compliance with Board procedures and academic integrity. NAB enquiries were conducted under a separate statute with its own thresholds and prosecutorial discretion. ACE, on the other hand, is acting under a provincial statute with a specific Schedule of offences and a distinct mandate to investigate corruption, misconduct and manipulation of public records by public servants and their associates. The mere fact that one forum, on a particular evidentiary record, did not find sufficient material to proceed does not create a perpetual bar against all other competent fora, particularly where fresh material has surfaced.

27. Double jeopardy, in its constitutional and criminal law sense, attaches to prosecution and punishment for the same offence, not to preliminary enquiries or administrative scrutiny. The Petitioner is not being tried twice for the same offence; rather, ACE is examining, on the basis of new material,

whether scheduled offences have been committed. The earlier departmental exonerations may be relevant as part of the evidentiary mosaic, but they do not extinguish ACE's statutory jurisdiction, nor do they create a constitutional bar to inquiry.

28. The Petitioner's grievance is also couched in the language of mala fides and harassment. He asserts that FIR No. 03 of 2026 does not name him, that the allegations against him are based on the co-accused's statements, and that the inquiry has mutated into a "witch hunt" probing his appointment, foreign travel, assets, and other matters beyond the scope of the FIR.

29. The record, however, discloses that the matter has travelled beyond the initial FIR. The SSP's letter states that during the investigation, the accused Humayun Mustafa and co-accused Ali Raza Rind disclosed a scheme in which an individual, Falak Sher, allegedly acting as an agent of BISE Mirpurkhas, in concert with the Petitioner and other officials, facilitated the enhancement of marks and the issuance of fake certificates for consideration. The ACE team conducted a surprise visit at BISE Mirpurkhas, seized examination records spanning multiple years, recovered school seals and dual versions of the Intermediate Gazette 2023, and ordered a forensic examination of the Board's IT systems. The forensic report, as summarised in the comments and the intervener's application, indicates thousands of instances of post-declaration mark tampering and "direct cases" over several years.

30. At this stage, we are not called upon to pronounce upon the truth or falsity of these allegations. That is the domain of the enquiry and, if warranted, investigation and trial. Our remit is confined to determining whether the material is so palpably frivolous or contrived that it would be unjust to permit the statutory process to run its course. On the present record, it cannot be said that the allegations are fanciful or devoid of any factual substratum. The seizure of official records, the recovery of seals and dual gazettes, and forensic indications of systemic tampering constitute, at the very least, a prima facie

basis for inquiry. Whether the Petitioner is ultimately found culpable or exonerated is a matter for the competent fora.

31. The notice issued to the Petitioner under Section 160 Cr.P.C. by ACE, seeking information regarding his appointment, qualifications, service progression, foreign travel, assets and related matters, is not, in itself, unlawful. Once ACE is seized of allegations that a public servant has abused his office for pecuniary gain, it is neither irrational nor impermissible for it to seek information bearing upon his appointment, tenure and financial profile. The breadth of the questions may be tested at the appropriate stage, but their mere existence does not render the entire inquiry ultra vires.

32. It is on record, through the subsequent submission of Respondent No.3, that with the approval of ACC-I / Chief Secretary Sindh, ACE Mirpurkhas has registered its own FIR against the Petitioner and others and that the Petitioner is presently in police custody remand under orders of the Special Judge Anti-Corruption (Provincial), Hyderabad. Learned A.A.G. has urged that, in view of this development, the present petition has become infructuous.

33. Strictly speaking, the relief originally sought quashment of the inquiry and restraint against registration of FIR has been overtaken by events. However, given that the Petitioner's challenge is rooted in an attack on ACE's jurisdiction and that the same arguments would inevitably be raised in any subsequent challenge to the ACE FIR, we consider it appropriate to decide the matter on the merits rather than dispose of it as infructuous. To leave the jurisdictional question unanswered would be to invite multiplicity of proceedings.

34. For the reasons recorded above, we hold that ACE is statutorily competent to inquire into and investigate the allegations in question, that the Petitioner is a public servant within the meaning of the ACE Act by virtue of Section 26 of the Boards Ordinance and that neither the ACC-I resolution nor prior departmental or NAB enquiries operate as a bar to ACE proceedings. The

subsequent registration of an ACE FIR, therefore, does not suffer from the jurisdictional infirmities alleged by the Petitioner.

35. Allegations of mala fides, particularly against public functionaries, are not to be lightly accepted. They must be pleaded with specificity and supported by cogent material. In the present case, beyond asserting that the inquiry is a “witch hunt” and that social media discourse has been weaponised against him, the Petitioner has not placed before us any concrete material demonstrating personal animus, a collateral purpose, or the abuse of power by the named officials. The mere fact that the Petitioner feels aggrieved by the initiation of proceedings or that he has previously faced and survived other enquiries does not, without more, translate into mala fides in law.

36. On the contrary, the record reflects that the trigger was an FIR lodged by a private complainant, followed by disclosures by accused persons, a formal recommendation by the SSP and subsequent administrative and forensic steps by ACE and BISE. The sequence of events is institutionally traceable and not suggestive of a purely personal vendetta. In such circumstances, we would be slow to attribute malafides to statutory functionaries acting within their apparent remit.

37. Synthesising the foregoing, we are of the considered view that: (i) the Petitioner, as Controller of Examinations, BISE Mirpurkhas, is a public servant within the meaning of Section 2(vi) of the Sindh Enquiries and Anti-Corruption Act, 1991, read with Section 26 of the Sindh Boards of Intermediate and Secondary Education Ordinance, 1972; (ii) ACE is statutorily empowered to hold preliminary enquiries and investigations into scheduled offences and misconduct involving such public servants and persons acting in concert with them; (iii) the ACC-I / PACC resolution relied upon by the Petitioner does not and cannot curtail or extinguish the jurisdiction conferred by statute; (iv) prior departmental enquiries and NAB proceedings, even if favourable to the Petitioner, do not create a bar of double jeopardy or finality against ACE proceedings, particularly where fresh material has surfaced; (v) the material

presently on record, including the SSP's letter, the seizure of records, recovery of seals and dual gazettes and the forensic indications of systemic tampering, provides a prima facie basis for inquiry and investigation and (vi) the allegations of mala fides and harassment are not substantiated to the degree required for constitutional intervention.

38. In the result, the petition is devoid of merit and is accordingly dismissed. The interim order earlier operating in favour of the Petitioner stands vacated. It is, however, clarified that nothing contained in this order shall be construed as an expression of opinion on the ultimate guilt or innocence of the Petitioner or any other person; all observations are confined to the question of jurisdiction and permissibility of proceedings. The competent fora shall decide all matters strictly in accordance with law and on the basis of evidence adduced before them, uninfluenced by any tentative observations herein.

JUDGE

JUDGE

Adnan Ashraf Nizamani