IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-811 of 2020
(Muhammad Irfan vs SBCA and others)

ORDER WITH THE SIGNATURE(S) OF THE JUDGE(S)

Present:
Mr Justice Riazat Ali sahar,
Mr. Justice Ali Haider 'Ada'

1. *For hearing of CMA No.3873/2020.*
2. *For hearing of CMA No.3874/2020.*
3. *For hearing of main case*

19.10.2026.

Mr. Naeem Suleman Advocate for the Petitioner.
Mr. Dhani Bux Lashari, Advocate for SBCA.

ORDER

Ali Haider 'Ada' J.- The matter pertains to alleged illegal construction raised by respondent No.3. The petitioner contends that the Sindh Building Control Authority (SBCA) has failed to enforce the relevant provisions of law, thereby compelling him to invoke the constitutional jurisdiction of this Court.

2. On the other hand, learned counsel for the SBCA has filed a report/comments along with copies of notices, submitting that action has already been initiated against respondent No.3 and that the last notice was issued on 16.10.2026. It is further submitted that the matter may be proceeded with in accordance with law.

3. Heard and perused.

4. Being public functionaries, the concerned authorities are under an obligation to act fairly, justly and reasonably while discharging their statutory duties. Furthermore, **Article 24-A of the General Clauses Act** provides for the exercise of statutory powers and performance of statutory functions fairly, justly and reasonably, with due regard to the

circumstances of each case. For ready reference, the relevant provision reads as under:

> *24-A. Exercise of power under enactments.-(1) Where, by or under any enactment, a power to make any order or give any direction is conferred on any authority, office or person such power shall be exercised reasonably, fairly, justly and for the advancement of the purposes of the enactment.*

5. A bare perusal of the section ibid. clearly manifests that any Authority, empowered to make an order or issue a direction under any enactment is under a legal obligation to act fairly, judiciously and in accordance with law. The provision further requires that such an order be a speaking order, supported by cogent reasons and reflecting due application of mind to the facts of the case and the applicable law. In this regard, we are fortified by the dictum laid down by the august Supreme Court of Pakistan in **Muhammad Amin Muhammad Bashir Ltd. v. Government of Pakistan through Secretary, Ministry of Finance (2015 SCMR 630),** wherein it was held that:

> *"9 .... The exercise of discretionary power must be rational and have a nexus with the objectives of the underlying legislature, when it confers a wide ranging power it must be deemed to have assumed that the power will be, firstly, exercised in good faith, secondly, for the advancement of the object of the legislation, and thirdly in a reasonable manner. Section 24A of the General Clauses Act, 1897, reiterates the principle that statutory powers is to be exercised "reasonably, fairly, justly and for the advancement of the purposes of the enactment" and further clarifies that executive authority must give reasons for its decisions. Any action by any executive authority which is violative of these principles is liable to be struck down."*

6. In view of the foregoing facts and circumstances, it appears that the Sindh Building Control Authority (SBCA) has already initiated proceedings in accordance with the applicable legal framework by issuing notices to respondent No.3 in respect of the construction in question. In such circumstances, the SBCA is expected to proceed with the

matter strictly in accordance with law, ensure effective enforcement of the relevant statutory provisions in their true spirit, and bring the proceedings to their reasonable conclusion after affording an adequate opportunity of hearing to all concerned parties. The authority shall ensure that the grievance raised by the petitioner is considered fairly, objectively and on its own merits, and shall pass a reasoned and speaking order in accordance with law within a period of 45 days. Moreover, the forum of the Smart Complaint Redressal Mechanism (SCRM) is also available within the SBCA for the redressal of grievances in accordance with the prescribed procedure.

7. In view of the above, the instant constitutional petition is disposed of accordingly.

JUDGE

JUDGE