

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 232 of 2025

[Mst. Sana Siddiqui v. Province of Sindh and others]

Before:

Justice Arbab Ali Hakro

Justice Muhammad Osman Ali Hadi

Petitioner by : Mr. Sikandar Ali Junejo, Advocate

Respondent by : Mr. Shahryar Imdad Awan, Assistant
Advocate General Sindh

Date of Hearing : 01.09.2026

Date of decision : 01.09.2026

ORDER

ARBAB ALI HAKRO, J. – Through this Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has sought declarations and directions against the respondents for the issuance of an offer or appointment order in her favour as a Primary School Teacher (BPS-14), on the basis of securing 48 marks in the test conducted by SIBA Testing Services (STS). The petitioner further seeks the production of the recruitment record and a comparison of her merit position with those of candidates who, according to her, were appointed despite obtaining fewer marks.

2. Briefly stated, the petitioner applied for the post of Primary School Teacher (BPS-14) under the recruitment process initiated by the School Education and Literacy Department, Government of Sindh. She appeared in the written test conducted by SIBA Testing Services and secured 48 marks. Her grievance is that, after the qualifying benchmark was reduced, candidates with lower marks were appointed, whereas she was ignored despite allegedly being eligible and despite the availability of vacancies in Taluka New Sukkur. On these assertions, the instant petition has been filed seeking her appointment.

3. Respondent No.3 (SIBA Testing Services) filed its statement and took the position that it merely conducted the written examination pursuant to the advertisement published on 28.02.2021 and thereafter declared and

transmitted the results to the School Education and Literacy Department in accordance with the governing arrangement. It was stated that STS had no role whatsoever in post-test scrutiny, merit determination, allocation of vacancies, application of quotas, recommendations, or the issuance of appointment orders, all of which fell exclusively within the domain of the School Education and Literacy Department. According to Respondent No.3, having completed its limited assignment of conducting the written test and forwarding the results, no cause of action survived against it.

4. Respondent No. 4, in para-wise comments, controverted the petitioner's claim and submitted that mere qualification in the written test does not confer any vested or enforceable right to appointment. It was specifically pleaded that the petitioner failed to appear before the District Selection Committee despite notice and the opportunity afforded under the Recruitment Policy, 2021. Consequently, she was declared absent, and her candidature was not considered further. It was further pleaded that appointments were made strictly in accordance with the Recruitment Policy, 2021; that candidates were required to complete all mandatory stages of the recruitment process; that, upon non-appearance of a candidate, the next waiting candidate was considered; and that the waiting period relating to PSTs/JESTs ultimately stood concluded on 30.06.2025. The respondents therefore prayed for dismissal of the petition.

4. Learned counsel for the petitioner contended that the petitioner had passed the written test and was entitled to appointment, as candidates scoring between 40 and 44 marks had allegedly been appointed. He submitted that vacancies were available in Taluka New Sukkur and that the non-consideration of the petitioner, despite her higher score of 48 marks, was arbitrary, discriminatory and violative of Articles 4 and 25 of the Constitution. He accordingly prayed that the respondents be directed to issue an offer order in favour of the petitioner.

5. Learned Assistant Advocate General, while adopting the para-wise comments filed on behalf of the official respondents, argued that the

petitioner has no enforceable legal right to appointment merely on the basis of obtaining 48 marks in the written test. He contended that the Recruitment Policy, 2021 expressly prescribes a complete recruitment mechanism comprising a written test, verification of credentials, appearance before the District Selection Committee, determination of merit, and availability of vacancies. He submitted that the petitioner admittedly does not possess any recommendation, selection order, or offer letter, and having failed to appear before the competent Selection Committee, she lawfully lost her right to consideration under the governing policy. He further argued that constitutional jurisdiction cannot be invoked to obtain an appointment in contravention of the recruitment rules and policy.

6. We have heard learned counsel for the petitioner and the learned Assistant Advocate General, and have also gone through the record with their assistance.

7. The controversy in the present matter lies within a narrow compass. The sole foundation of the petitioner's claim is that she secured 48 marks in the written test and therefore ought to have been appointed as a Primary School Teacher. This contention is misconceived. The Recruitment Policy, 2021 clearly envisages a multi-stage recruitment process and does not treat success in the written test as the sole criterion for appointment. Rather, qualification in the written examination merely enables a candidate to participate in subsequent stages of scrutiny, verification and selection. The policy categorically stipulates that candidates shall be called before the District Selection Committee according to their ranking, and that where a candidate fails to appear, such candidate shall be marked absent and his or her candidature shall not be considered. The policy further provides that the issuance of appointment letters remains subject to merit, the availability of vacancies and the fulfilment of other prescribed conditions, and specifically declares that passing the test does not automatically make a candidate eligible for appointment.

8. The respondents have consistently asserted that the petitioner failed to appear before the District Selection Committee and was consequently marked absent. This assertion is supported by the departmental position reflected in the record. Apart from a bald denial, the petitioner has not placed any material before the Court showing that she appeared before the Selection Committee, that she was wrongly marked absent, or that she was unlawfully prevented from participating in the recruitment process. In constitutional jurisdiction, disputed factual assertions cannot be presumed in favour of a litigant in the absence of cogent material. Accordingly, the respondents' stance regarding the petitioner's non-appearance remains un rebutted.

9. It is a settled principle of law that inclusion in a merit list, success in a written examination, or participation in a recruitment process does not create a vested, accrued or indefeasible right to appointment. At best, a candidate acquires a right to be considered fairly and in accordance with the law. The Supreme Court has consistently held that appointment to a public post remains subject to the fulfilment of all statutory and policy requirements and the availability of vacancies. Reliance may be placed on Secretary, Punjab Public Service Commission¹, wherein it was held that the existence of a merit position by itself does not create an automatic right of appointment and that recruitment matters are to be regulated in accordance with the applicable statutory framework.

10. Equally devoid of substance is the contention that some candidates who allegedly secured lower marks were appointed. No such candidate has been impleaded before this Court. No authenticated comparative merit list has been produced. No material has been brought on record to demonstrate that such persons belonged to the same category, quota, Union Council, Taluka, vacancy pool or merit segment as the petitioner. In the absence of legally admissible comparative material, a plea founded on discrimination under Article 25 of the Constitution cannot be accepted.

¹ Secretary, Punjab Public Service Commission v. Aamir Hayat (2019 SCMR 124)

11. We are also mindful of the settled constitutional principle that a writ of mandamus can issue only to enforce a legal right accompanied by a corresponding legal duty. The Federal Constitutional Court of Pakistan in Vice Chancellor, Shaheed Mohtarma Benazir Bhutto Medical University² held that constitutional jurisdiction cannot be exercised to create rights not recognized by law and that equitable considerations cannot override the governing legal framework. Since no statutory or policy provision has been shown to require the respondents to appoint the petitioner merely because she secured 48 marks, this Court cannot direct the issuance of an appointment order contrary to the applicable Recruitment Policy.

12. Furthermore, the notification issued by the School Education and Literacy Department, extending the waiting period up to 30.06.2025, did not create any fresh or automatic right to appointment. The extension merely enabled the consideration of candidates who otherwise remained eligible under the Recruitment Policy for vacancies arising during the stipulated period. Such a notification cannot be construed as reviving or validating a candidature that had ceased to be considered owing to non-compliance with a mandatory stage of the recruitment process.

13. In view of the foregoing discussion, we are of the considered view that the petitioner has failed to establish any vested legal right, any violation of the Recruitment Policy, 2021, any discrimination, or any illegality warranting interference in the exercise of constitutional jurisdiction under Article 199 of the Constitution. The petitioner's entire case rests on her written test score, whereas completion of the entire recruitment process was mandatory under the governing policy. Having failed to demonstrate that she successfully completed that process or that her candidature was unlawfully excluded, she is not entitled to the relief sought.

14. Consequently, this petition, being devoid of merit, is dismissed, along with all pending applications. No order as to costs.

² Vide order dated 07.01.2026, passed in F.C.P.L.A No.14/2025 (Vice Chancellor, Shaheed Mohtarma Benazir Bhutto Medical University v. Altaf Hussain Somroo)

JUDGE

JUDGE

Naveed Ali