

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

C.P No. D-233 of 2026

Present:

Yousuf Ali Sayeed &
Muhammad Osman Ali Hadi, JJ

Pakistan State Oil Company LimitedPetitioner

Versus

Federal Ombudsperson & others.....Respondents

Asim Iqbal, Farmanullah Khan & Syeda Mariam, Advocates,
for the Petitioner.

Mehreen Ibrahim, D.A.G.

Madeeha Mehar, Respondent No.2, in person.

Kashif Hanif and Ali Haider, Advocates, for Respondent No.3.

Date of hearing : 05.05.2026

ORDER

YOUSUF ALI SAYEED, J. - The captioned Constitutional Petition, filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, impugns the Order dated 09.01.2026 made by the Respondent No.1 (i.e. the Federal Ombudsman for Protection of Women against Harassment at the Workplace) in Complaint No.535 of 2025 (the “**Complaint**”) preferred by the Respondent No.2 against the Respondent No.3, whereby the Petitioner's application seeking stay of those proceedings, pending disposal of an identical complaint made before the Inquiry Committee constituted under Section 3 of the Protection Against Harassment of Women at the Workplace Act, 2010 (the “**Act**”), came to be dismissed.

2. The operative paragraphs of the Impugned Order read as follows:

"7. In light of the above, the objections raised regarding maintainability, forum shopping, multiplicity of proceedings, and the applicability of Order II Rule 2 C.P.C. do not survive. As regards the objection founded on the doctrine of election, reliance placed by Learned Counsel for the Accused persons is misplaced. Guidance may be drawn from C.P. D-313 of 2024 titled Abdul Karim Lashari v. Government of Sindh & Others, wherein the Honourable Sindh High Court held that where an inquiry committee does not proceed with a complaint expeditiously or effectively, the doctrine of election is not to be applied strictly, and the complainant is not precluded from invoking the original jurisdiction of the Ombudsperson. Furthermore, the Complainant has now clarified her position by withdrawing her earlier conditional statement before the Inquiry Committee without any reservation.

8. Accordingly, the applications dated 02.12.2025 and 17.12.2025 do not call for acceptance and stand dismissed."

3. Learned counsel for the Petitioner submitted that the Impugned Order runs contrary to the scheme of the Act; that it permitted the proceedings before Respondent No.1 to bypass the Inquiry Committee, defeating the purpose of Section 3; that the finding of "withdrawal" was unsupported by any material on record; that reliance on the cited judgment was misplaced; and that Sections 3, 4, 6, and 8, read together, disclosed a statutory hierarchy which the Impugned Order disregards.
4. Conversely, the learned DAG and the Respondent No.2 supported the Impugned Order. They submitted that the Doctrine of Election was not an inflexible bar. They also argued that the Petition was not maintainable as the Complaint remained pending before the Respondent No.1, and the same ought to be allowed to run its course, whereafter any party aggrieved could avail its remedy under the Act.

5. Turning firstly to the aspect of maintainability, it is well settled through the judgment rendered by the Supreme Court in relation to the analogous framework of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 in the matter reported as Peshawar Electric Supply Company Ltd. v. Wafaqi Mohtasib (Ombudsman), Islamabad and others, PLD 2016 Supreme Court, that the constitutional jurisdiction of this Court is not ousted where the order impugned is *ex facie* without jurisdiction. The principle applies with equal force to the matter at hand, as the grievance of the Petitioner is not that the Respondent No.1 erred within jurisdiction properly exercised, but that such jurisdiction was wrongly assumed over a complaint already and validly pending before the Inquiry Committee, raising questions as to (i) whether the Inquiry Committee had taken cognizance of and become seized of the matter prior to the institution of the Complaint, (ii) if so, whether the finding that Respondent No.2 had "withdrawn" her complaint is sustainable, and (iii) if not, whether in terms of Section 8(1) of the Act, the Respondent No.1 could assume original jurisdiction over an as yet undetermined complaint that remained pending before the Committee. The petition is thus found to be maintainable.
6. The facts apparent from the record, as relevant for the given purpose, reflect that the Respondent No.2 was appointed by the Petitioner as a Deputy Manager, Regulatory Affairs, on a probationary basis for six months vide an Appointment Letter dated 21.07.2025. Her performance during that period was apparently assessed as unsatisfactory, and her services were terminated vide a Letter dated 27.10.2025. It is not without significance that it was only upon termination that the Respondent No.2 levelled allegations of harassment against the Respondent

No.3, the Acting Deputy General Manager (Legal) of the Petitioner Company. As the merits of the matter are not under consideration, it is unnecessary for present purposes to dwell into the minutiae of those allegations. Suffice it to say that an e-mail dated 28.10.2025 captioned "Formal Grievance Against Wrongful Termination and Workplace Harassment" was addressed by her and it was sought that a formal investigation be initiated in that regard. The record reflects that the Petitioner had constituted an Inquiry Committee as per Section 3 of the Act, comprising its senior officials, and Complaint thus came to be placed before it. The Inquiry Committee took up the matter and resolved to issue a Show Cause Notice to Respondent No.3 and a Notice to the Respondent No.2 for hearing on 14.11.2025. A Show Cause Notice with a Statement of Allegations was accordingly issued to Respondent No.3 on 07.11.2025 under Section 4(1) of the Act, and notice dated 13.11.2025 was served on Respondent No.2 through courier, e-mail, and WhatsApp. On 14.11.2025, the Respondent No.3 appeared and sought time to file his defense; the Respondent No.2, notwithstanding due service, did not. Time was extended to 18.11.2025 at the request of the Respondent No.3, and a second notice of hearing was issued to the Respondent No.2 through the same modes. On 18.11.2025, the Respondent No.3 appeared and filed his para-wise written reply with supporting material, whereas the Respondent No.2 again did not appear, conveying only by WhatsApp that she had approached "a court of competent jurisdiction", and it subsequently coming to light that Constitutional Petition No.5464 of 2025 had been filed before this Court. As such, further proceedings were deferred to await the outcome of that Petition. Subsequently, the Petitioner received notice of the Complaint, which was fixed for hearing on 28.11.2025, and entered appearance so as to move an application for

stay on 02.12.2025 on the ground that the Inquiry Committee, having first taken cognizance under Section 3 of the Act, remained seized of the identical grievance. That application was dismissed vide the Impugned Order, on the footing that Respondent No.2 had "withdrawn" her complaint from the Inquiry Committee, citing the judgment rendered by a learned Division Bench of this Court in C.P. D-313 of 2024, since reported as Abdul Karim Lashari v. Governor of Sindh through Principal Secretary & Others 2025 CLC 734.

7. Turning then to the questions arising for determination, it merits consideration that the scheme of the Act is such that Section 3 thereof obliges every organization to constitute a three-member Inquiry Committee, whereas Section 7 provides for the appointment of an Ombudsperson at the Federal and provincial levels, with Section 8(1) providing that "*Any complainant shall have the option to prefer a complaint either to the Ombudsperson or the Inquiry Committee*". The powers of either forum to censure are co-extensive, subject to Section 6 affording a right of appeal to the Ombudsperson, at the instance of either an aggrieved accused or an aggrieved complainant, against the Inquiry Committee's recommendations in such instances where the complaint originates before that forum. That being said, the fact that the Inquiry Committee was seized of the subject of the Respondent No.2's grievance prior in time to the Complaint is not seriously in dispute. Indeed, that much is evident from the Impugned Order itself. Proceeding further, it is apparent that upon scrutiny, the finding recorded in the Impugned Order that the Complainant had "clarified her position by withdrawing her earlier conditional statement before the Inquiry Committee without any reservation" is not borne out. No application, letter, or communication of

withdrawal was, at any stage, placed before the Inquiry Committee itself. Instead, what was placed on record was an application addressed by the Respondent No.2 to the Respondent No.1, referencing the Ombudsman's notice dated 24.12.2025, wherein she stated that she "hereby formally withdraw[s] [her] complaint/proceedings from the Departmental Inquiry Committee," citing "significant delay, inaction, and procedural deficiencies" and, in particular, the fact that Respondent No.3 "has not been suspended pending the final outcome of the inquiry." The prayer clause of that application sought that "the Departmental Inquiry Committee, PSO, take such withdrawal on record and close the proceedings, and that the Ombudsman may note and record the same." No application was ever placed before, received by, or acted upon by the Inquiry Committee — a circumstance that the phrase "before the Inquiry Committee", as used in the Impugned Order, does not accurately reflect. Needless to say, an application addressed to one forum cannot, without more, operate in law to terminate proceedings pending before an altogether different forum. Thus, the findings in the Impugned Order as to the so-called withdrawal made "before the Inquiry Committee" does not survive scrutiny and cannot be sustained.

8. Moving further, while on consideration, the word "option" in Section 8(1) of the Act denotes an "election" to be made once, between two available for a, it is not, on any fair reading, a license to invoke both simultaneously, nor to abandon one midstream for the other, save where the first has become incapable of proceeding. That reading finds support in the exposition of the doctrine by the Supreme Court in the case reported as Trading Corporation of Pakistan vs. Devan Sugar Mills Limited and others, PLD 2018 Supreme Court 828, where it was held that the

choice among concurrent or co-existent remedies "vest[s] with the suitor," but that once exercised, the suitor is "prohibited from launching another proceeding to seek a relief or remedy contrary to what could be claimed and or achieved by adopting other proceeding" — a doctrine traced to the principles of waiver under Order II, Rule 2, C.P.C., estoppel under Article 114 of the Qanun-e-Shahadat Order, 1984, and res judicata under Section 11, C.P.C. It was further clarified in that judgment that "[a]s long as a party does not avail of the remedy... all such remedies remain open to be invoked," but that thereafter a party "cannot be allowed to hop over and shop for one after another coexistent remedies."

9. The exception to the doctrine carved out in the case of Lashari (Supra), as cited and relied upon in the Impugned Order by reference to its petition number, is that "where an inquiry committee does not proceed with a complaint expeditiously or effectively, the doctrine of election is not to be applied strictly." However, that case turned on its own facts, where a forum "was not providing an adequate, efficacious and speedy remedy," and the complaint before it had been "going no where before any decision had been made", with the learned Division Bench itself having noted that had the Committee "moved faster and passed a decision within the time frame set out for it under the Act it is doubtful whether the Ombudsman could have been approached. The relevant excerpts from that judgment read as follows:

"13. In considering this doctrine we find that its applicability will be based on the particular facts and circumstances of each case. This case involved a case of serious sexual harassment at the work place which was a very difficult issue for the lady complainant to broach in the first place. Nevertheless she was brave enough to do so. The

question then emerges whether the complainant is tied to her original complainant which is proceeding very sluggishly (and certainly in violation of the time line given of 30 days under section 4 (4) of the Act for the Inquiry Committee to make its findings and recommendations) in a male dominated department which she will have to attend daily and come face to face with the person she has accused of sexual harassment which would be particularly uncomfortable for the complainant if not traumatic. It has come in evidence that the complainant suffered sleepless nights and lost weight due to the sexual harassment for which she would have received little support from her other male colleagues who might well have ostracized her. Thus, in our view sexual harassment cases cannot be treated like ordinary cases where the doctrine of election would apply.

14. Sexual harassment in the work place has only recently been grudgingly accepted in Pakistan which is a male dominated society and women who suffer the same cannot be left at the mercy of an internal complaints system which is sluggish and is perceived to favour the male sex. Sexual harassment at the work place, or any where else for that matter, is a separate species of a serious offence altogether and must be viewed from a different lens if we are to move forward as a progressive society where all people are treated as equal under the constitution whilst embracing the concept of an Islamic welfare state where women are afforded up most respect and held in very high esteem.

15. As such we find that in sexual harassment cases where the remedy of a complaint before the department is extremely sluggish and often ineffective the concept of election will not be strictly applied and we find the case of Trading Corporation of Pakistan (Supra) distinguishable based on the particular facts and circumstances of this case. In essence the complainant in this case seems to have abandoned her complainant as it appeared to be going nowhere and upon finding out of the possibility of filing her complaint before the Ombudsman made a complaint before the Ombudsman under the Act which gave her a more private, efficacious and speedy remedy in connection with a highly sensitive and personal matter. Namely, sexual harassment.

16. As such we do not find the doctrine of election to be applicable based on the particular facts and circumstances of the case and find that the Ombudsman under the Act was lawfully able to adjudicate the complainant's complainant which was made to him under the Act."

10. In the matter at hand, the Respondent No.2's election was made and completed the moment her complaint was lodged with and taken cognizance of by the Inquiry Committee. As for the Lashari exception, the difficulty lies not with the principle itself but with its application under the given facts and circumstances. In Lashari it was the Committee's own inertia that justified recourse elsewhere, whereas the Impugned Order does not identify any material establishing that the Inquiry Committee failed to proceed expeditiously or effectively. The record, as examined, also provides no support to conclude that this was so in the instant case. On the contrary, here the Committee issued a Show Cause Notice within some ten days from the outset and fixed a first hearing within roughly two weeks, well inside the thirty-day period contemplated by Section 4(4). Second, such slowing of the proceedings as did occur thereafter was a direct consequence of the considered decision, taken on 19.11.2025, to defer proceedings pending the outcome of Respondent No.2's own constitutional petition (as since withdrawn) - a deferral occasioned by her recourse to this Court, not by any want of diligence on the Committee's part. Indeed, when queried during the course of the hearing as to the reason for the change of forum, no reliance was placed any ground of delay, inaction, or procedural deficiency, with the only explanation tendered by the Respondent No.2 being that the Inquiry Committee had not immediately suspended the Respondent No.3. That solitary ground of non-suspension is of no avail, as non-suspension of the Respondent No.3 pending inquiry is not a *sine qua non* under the Act, and whilst it may nonetheless have been a matter of significance so as to shield a victim of harassment from unnecessary interaction with the alleged offender whilst the matter is being probed, that consideration is of no relevance in a matter such as the one at hand, where the Respondent No.2 is no longer an

employee within the workplace in question. Even otherwise, this ground was never communicated to the Inquiry Committee, whether by representation, application, or otherwise; and surfaces only in an application addressed to Respondent No.1, and thereafter during the course of submissions advanced before us at the time of hearing.

11. Ergo, it follows that: (a) the Inquiry Committee was validly and first seized of the complaint; (b) the withdrawal application relied upon in the Impugned Order was addressed to and filed only before the Respondent No.1, was never placed before the Inquiry Committee, and could not, in law, terminate proceedings validly pending before that forum; (c) no case of non-functioning, delay, or partiality sufficient to displace the election has been made out; and (d) the assumption of original jurisdiction by Respondent No.1 was not warranted.

12. That being so, the Petition is allowed, with the Impugned Order dated 09.01.2026 being set aside and proceedings of the Complaint before the Respondent No.1 being stayed. The Inquiry Committee shall resume and conclude its proceedings expeditiously, following a final notice to the Respondent No.2, making it clear that continued non-appearance without reasonable cause will entitle the Committee to proceed and render its findings on the material available.

JUDGE

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