ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-1353 / 2012

(Shaikh Ghiasuddin Ahmed v. The Registrar Cooperative Societies Sindh and another)

Date	Order with signature of Judge

Before:-
Mr. Justice Riazat Ali Sahar
Mr. Justice Ali Haider 'Ada'

Date of hearing : 19.10.2026

Date of order : 05.11.2026

M/s Shaikh Javed Mir, Agha Muhammad Khan and Ms. Samreen Elahi, Advocates for Petitioner.
Mr. Abdul Jalil Zubedi, Additional Advocate General Sindh.

ORDER

Riazat Ali Sahar, J. Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner, claiming to be an elected member of the Managing Committee and Honorary Secretary of KDA Officers Cooperative Housing Society Limited (the Society), has questioned the exercise of statutory powers whereby the Society was superseded and its management entrusted to the Sindh Cooperative Housing Authority, particularly through the notification dated 18.02.2012. The principal relief sought is a declaration that the impugned action was without lawful authority and of no legal effect.

2. The controversy has a history of successive proceedings. Learned counsel for the petitioner has stated that the Society had been functioning through an elected committee under the cooperative law and its registered bye-laws, but its management became the subject of recurring interference by the official respondents. In C.P. No. D-1223 of 2008, this Court set aside an order cancelling the Society's amalgamation and directed a fresh inquiry after affording the parties an opportunity of hearing. The respondents thereafter passed an order dated 14.01.2011 again cancelling the amalgamation, which was challenged in further constitutional proceedings.

3. Thereafter, on 18.04.2011, action was taken under section 6(2) of the Sindh Cooperative Housing Authority Ordinance, 1982 (the Ordinance of 1982), and an Administrator was appointed under section 7 thereof. That action was challenged through C.P. No. D-1345 of 2011. This Court set aside the measure on the terms recorded in its judgment and permitted the competent authority to pursue the

requisite inquiry in accordance with law. During the pendency of Civil Petition No. 949-K of 2011 before the Supreme Court, the subsequent notification dated 18.02.2012 was brought on record, following which the earlier proceedings were disposed of as not pressed. It is this subsequent notification which is directly challenged here.

4. Learned counsel for the petitioner submit that the impugned notification is merely a renewed attempt to achieve indirectly what the previous judicial orders had disallowed. According to them, the respondents were actuated by collateral considerations relating to allotment and transfer of plots; the statutory power of supersession was used to displace an elected body rather than to remedy any genuine default; and the Administrator assumed control of the Society's records, funds, transfers and developmental matters without lawful justification. Reliance is placed on the prior proceedings and the petitioner seeks restoration of the Society's elected management.

5. Conversely, learned Additional Advocate General, Sindh, objects to the maintainability as well as the merits of the petition. He maintains that the petitioner transferred his plot in 1984 and consequently cannot assert membership or entitlement to hold elective office without first establishing his status under the applicable bye-laws. It is further submitted that the competent authority acted upon complaints concerning irregular allotments and transfers, defective maintenance of the membership and allotment registers, unsettled audit objections, financial irregularities and non-observance of the governing law. According to the official respondents, the concerned office-bearers were called upon to explain the objections and were afforded opportunities of hearing, but no satisfactory explanation was forthcoming. The assertions of mala fide are denied. Dismissal of the petition is accordingly sought.

6. Heard. Perused. Having considered the rival submissions and the material referred to in the record, the questions requiring determination are whether the impugned notification is shown to have been issued in excess of statutory authority or in breach of mandatory procedural safeguards; whether it violates the binding effect of the earlier judicial orders; and whether the disputed questions of membership, financial management and allotment can be resolved in the present constitutional proceedings.

7. The statutory scheme must first be kept in view. Section 6(1) of the Ordinance of 1982 empowers the Government, upon satisfaction of the statutory grounds including failure to perform duties in accordance with law or bye-laws, mismanagement, or conduct prejudicial to members, to issue appropriate directions

or order an inquiry. Section 6(2) provides for the consequential taking over of the charge and control of a society by the Authority upon the statutory conditions being fulfilled. Section 7 concerns the appointment, by the Authority, of a Managing Committee or an Administrator to perform assigned functions. These powers are not an unrestricted discretion to displace an elected body; their exercise must remain connected to the purpose of protecting the Society and its members.

8. A particularly material authority is ***Province of Sindh v Public at Large, PLD 1988 SC 138,*** in which the Supreme Court directly examined section 6(2) of the Ordinance of 1982. It affirmed the indispensability of an opportunity of hearing in proceedings affecting the management of a cooperative society, while recognising that an emergent protective intervention may precede hearing if the opportunity is supplied promptly thereafter. The distinction is important: urgency may regulate the timing of hearing but cannot be invoked as a general licence to dispense with natural justice.

9. The Division Bench judgment in ***Gulshan-e-Faisal Cooperative Housing Society Limited through Secretary, PLD 2011 Karachi 163***, is equally relevant because it considers the interplay between sections 6 and 7 of the Ordinance of 1982, the Cooperative Societies Act, 1925, and the Sindh Cooperative Housing Authority Rules, 1986. The Court held, in substance, that inquiry material arising under the cooperative law is not necessarily excluded from consideration under the Ordinance of 1982; that there must be relevant material to sustain intervention; that the statutory authority, rather than an unauthorised functionary, must exercise the power of appointing an Administrator; and that the prescribed opportunity to answer the allegations remains essential. The decision therefore does not establish immunity for official action: it requires a lawful foundation, observance of procedure and fidelity to the statutory purpose.

10. Tested on these principles, the objection founded solely on the existence of the earlier petitions cannot succeed. Those proceedings had set aside prior administrative measures and required the respondents to proceed lawfully. They did not extinguish the competent authority's jurisdiction for all time or prohibit a fresh action founded upon legally relevant material and taken after observing the necessary safeguards. Equally, it would be impermissible for the respondents to reissue a notification as a mere device for defeating a binding judgment. The decisive consideration, therefore, is the legality of the subsequent action, not merely its chronological proximity to the earlier litigation.

11. The allegations relied upon by the official respondents concern matters falling within the regulatory purpose of the Ordinance of 1982: membership and

allotment records, plot transfers, expenditure, audit compliance and the conduct of the elected management. Those allegations are serious and deserve examination by the authority entrusted with supervising cooperative housing societies. Their recitation in the respondents' submissions, however, is not equivalent to a judicial finding that every charge stands proved. What falls for decision here is whether the petitioner has demonstrated a defect in the assumption or exercise of statutory jurisdiction sufficient to nullify the particular notification under challenge, and not whether the Court should itself conduct a fresh audit or trial of the allegations.

12. Learned Additional Advocate General has asserted that inquiry proceedings were undertaken and opportunities of personal hearing were extended to the office-bearers. The petitioner disputes the lawfulness and purpose of the action but, upon the material identified in the present proceedings, has not established a specific violation of a mandatory requirement which would justify declaring the notification void. This conclusion should not be taken as an endorsement of any proposition that a bare official assertion can replace the record of a lawful inquiry. The statutory preconditions, the competent decision-maker and the requisite opportunity of hearing remain matters capable of judicial scrutiny whenever a concrete violation is established.

13. It is also necessary to separate the legality of the notification from the underlying factual disagreements. Whether the petitioner retained membership after the alleged transfer of his plot in 1984, whether particular allotments or transfers were regular, and whether the accounts and registers were correctly maintained are controversies which may require examination of original records, bye-laws, correspondence and evidence. The Supreme Court in ***Special Secretary-II (Law and Order), Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa v Fayyaz Dawar, 2023 SCMR 1442***, explained that constitutional proceedings ordinarily enforce an existing, ascertainable legal right and are not intended for resolving contested facts through elaborate fact-finding. The same limitation was reiterated in ***Waqar Ahmed and others v Federation of Pakistan and others, 2024 SCMR 1877***. These authorities do not exclude review of a demonstrably unlawful statutory action; they preclude conversion of a constitutional petition into a forum for adjudicating disputed civil and evidentiary questions.

14. The objection to the petitioner's locus standi must be approached with the same care. A past transfer of a plot is not, by itself, a judicial determination of cessation of membership without reference to the applicable law, the Society's bye-laws and its membership record. Nevertheless, the petitioner cannot obtain affirmative relief founded upon an asserted personal status which remains unestablished in the present record. Even assuming, for purposes of examining the

public-law question, that he had sufficient standing to draw attention to the legality of supersession, that assumption would not dispense with the necessity of showing an actual jurisdictional or procedural infirmity in the challenged action.

15. The limits of interference under Article 199 were recently revisited in ***Muhammad Safeer and others v Muhammad Azam and others, PLD 2024 SC 838***. The Supreme Court explained that the availability of other remedies ordinarily informs the High Court's discretion, but cannot shield an action which is plainly without jurisdiction, void or patently mala fide. Consequently, the existence of disputed facts does not foreclose review of an illegality apparent on the face of the record. On the other hand, where the petition calls for adjudication of contested facts and no such patent infirmity is demonstrated, judicial review is not to be used as a substitute for the statutory process. This distinction governs the present matter.

16. The plea of mala fide has likewise been considered. An allegation that the authorities were displeased with the petitioner or wished to interfere in plot allotments cannot, without supporting particulars and material, furnish an independent basis for invalidating the notification. The existence of earlier adverse decisions against the department raises the need for careful scrutiny, but does not alone prove that every subsequent measure was retaliatory. In the circumstances before us, no material has been identified which permits a definitive finding that the notification dated 18.02.2012 was issued solely for an extraneous object or in conscious disregard of the earlier orders.

17. Nor does the disposal of Civil Petition No. 949-K of 2011 as not pressed alter that conclusion. Such disposal did not amount to a pronouncement by the Supreme Court on the merits of the notification dated 18.02.2012. It neither conferred judicial approval upon that notification nor declared it unlawful. The notification accordingly falls to be examined on its own statutory footing, uninfluenced by either of the competing assumptions sought to be attached to the result of the earlier proceedings.

18. One further aspect requires express clarification because the impugned measure dates back to 2012. Supersession is a corrective and protective device; it is not designed to legitimise indefinite displacement of the Society's representative management. In ***Gulshan-e-Faisal Cooperative Housing Society Limited through Secretary, PLD 2011 Karachi 163***, this Court separately emphasised the obligation to restore elected management in accordance with the electoral provisions of the Ordinance of 1982. More recently, in High Court Bar Association Co-operative Society Limited v Province of Sindh and others, C.P. No. D-1780 of 2025, decided on 04.12.2025, a Division Bench of this Court reiterated that an Administrator's

functions are circumscribed and that prolonged suspension of elections is impermissible. The latter is an unreported decision, identified here by its petition number and date. We make it clear that rejection of the present challenge to the notification as issued in 2012 neither validates the continuance of any Administrator for an unlimited period nor precludes a distinct challenge, founded on subsequent events and the law applicable thereto, to an unlawful continuation of control, failure to conduct elections, or misuse of the Society's assets.

19. In the cumulative assessment, the earlier orders of this Court did not bar a fresh proceeding in accordance with law; the Supreme Court's disposal as not pressed did not determine the validity of the later notification; and the petitioner has failed, upon the material presented in the instant proceedings, to demonstrate such a patent want of jurisdiction, identifiable denial of hearing or proved mala fide as would warrant annulment of the notification dated 18.02.2012. The personal and financial controversies raised by the parties are not finally determined by this order, and all questions concerning any subsequent administrative acts remain open to adjudication before the competent forum in accordance with law.

20. For the foregoing reasons, the instant constitutional petition is **dismissed**. All pending miscellaneous applications, if any, stand disposed of accordingly. There shall be no order as to costs.

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Shahzad Soomro