

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No.D-3020 of 2022

[Rashida Bhatti & another vs. Province of Sindh & Ors.]

Before:

Justice Muhammad Saleem Jessar

Justice Nisar Ahmed Bhanbhro

Petitioners	Rashida Bhatti & another: Through Mr. Raja Mohiuddin Panhwar advocate
Respondents	Province of Sindh & Ors: Through Mr. Rafique Ahmed Dahri Assistant A.G Sindh
Date of hearing	17.10.2025
Date of Judgment	17.10.2025

J U D G M E N T

NISAR AHMED BHANBHRO, J: Through this petition, the petitioners seek following reliefs:

- a) *That this Honourable Court may be pleased to direct the respondents to referred the case of Petitioners to the deputy Commissioner Hyderabad conduct DRC in terms of order dated. 18-03-2018 in CP No. 440/2014 and order 26-01-2022 in CP No. 1836/2018.*
- b) *That this Honourable Court may be pleased to direct the respondents to appoint the Petitioners as a PST in their respective UCs because they place in previous DRC at the place of S. No. 2 & 3.*

2. Learned counsel for the petitioners contended that government of Sindh introduced teachers' recruitment policy in the year 2012 to make appointment of teachers on Union Council (UC) basis. He argued that pursuant to said policy advertisement was published in various newspapers; the petitioners applied for the post of Primary School Teacher; the petitioners appeared in the recruitment test conducted by National Testing Service (NTS). He argued that petitioner No.1 Rashida Bhatti got 74 marks and her name was placed at Sr.No.42 of the merit list of UC-9 Taluka and District Hyderabad while the petitioner No.2 Abida Bhatti got 82 marks and her name was placed at Sr. No.104 of the merit list of UC-12 Taluka and District Hyderabad. He further argued that names of the petitioners were placed in

merit list of wrong Union Councils, therefore, for correction of record petitioners moved applications to the District Recruitment Committee (DRC) and asserted that they were residents of UC Husri, therefore, their names be shifted to UC Husri, which was accordingly acceded to by the DRC. He argued that DRC conducted its meeting and recommended eight candidates for appointment as PST in UC Husri, wherein the name of petitioner No.1 was placed at Sr. No.7 while the name of petitioner No.2 was placed at Sr. No.2. He further argued that petitions bearing No. D-440, 1836 and 1698 of 2014 were filed before this Court, wherein, learned Division Bench of this Court directed the respondent No.3 to conduct fresh DRC in UC Husri vide order dated 18.03.2018 and 26.01.2022. Pursuant to directions of this Court DRC meeting was held and the names of the petitioners were dropped on account of report furnished by Assistant Commissioner / Additional Commissioner I Hyderabad that the name of village shown in the domicile and PRCs of the petitioners did not exist in Deh Panhwari of UC Husri. He argued that petitioners moved applications to the DRC but to no avail. He argued that the Petitioners were residents of UC Husri since forefathers for last about more than 50 years. He argued that the Domicile and PRCs of the Petitioners were genuine, which were issued in year 2003. He further argued that DRC deprived petitioners who were meritorious candidates of the right to appointment under extraneous considerations, such decision was not sustainable under the law. He prayed for allowing this Petition.

3. Learned Assistant A.G controverted the stance of the petitioners and submitted that the petition is barred by law and hit by laches; that the petitioners were not entitled for any relief as claimed, therefore, the petition is liable to be dismissed.

4. Heard arguments and perused the material made available before us available on record.

5. Perusal of the record and examination of the documents filed by the parties revealed that the claim of the petitioners has not been denied by the official respondents. It is admitted that after successfully qualifying the recruitment test and interview names of the Petitioners were placed in the

merit list of UC Husri. It is admitted that the names of the Petitioners were recommended by the DRC for appointment. The Director Schools Education (Primary) Hyderabad has admitted that the name of petitioner No.1 stood at Sr. No.7 while the name of petitioner No.2 stood at Sr. No.2 of the merit list of UC Husri, as against the 08 (Eight) vacant positions. Director School Education has admitted all the averments in the petition by stating that "*admitted as per matter of record*" except para-13 and 33, wherein the reason to refuse appointment to the Petitioners finds mention, which reads as under:

That, as quoted in para supra 13 that as per the Domicile verification reports furnished by the Deputy Commissioner in the year 2013-14 wherein the petitioners were declared by the statement "she/they is/are not residing on the given address as no title village is existed in deh panhwari Taluka Hyderabad", the petitioners cases were not considered by the Deputy Commissioner, Hyderabad/Chairman DRC."

7. Perusal of the reply to the petition reflects that the petitioners were denied appointments on the basis of the report of Assistant Commissioner Hyderabad which pointed out that the name of village (Jamadar Pandhi Khan Panhwar) shown in the domicile, PRC and CNICs of the petitioners did not exist in Deh Panhwari of UC Husri. Care examination of the record pertaining to the permanent residence of the Petitioners inferred that domicile certificate of father of petitioners namely Rasool Bux Bhatti issued by the then District Magistrate Hyderabad on 06.06.1994 (*page number 83 of petition*), shows his residence as *village Jamadar Pandhi Khan Panhwar, Husri Taluka and District Hyderabad*. Father of the Petitioner was issued PRC Form-C dated 05.03.1975 by the then District Magistrate Hyderabad (*page number 85 of petition*) which contains the same address as mentioned in Domicile Certificate. The manual NIC issued on 31.01.1978 in favour of the grand parents of the petitioners namely Chutto and Nooran (*page number 73 of petition*), too contained the aforementioned same address. The petitioners were issued domiciles and PRCs by the Executive District Officer (Revenue) Hyderabad on 04.09.2003 and 15.09.2003 (*page number 75, 77, 79, 89, 91 of petition*), as well as residence certificates issued by the Town Officer, Town Committee Husri dated 22.06.2022 (*page number 81, 93 of petition*), contain the permanent residence address of the Petitioners as '*village Jamadar Pandhi Khan Panhwar Husri*'. It may be observed that above address is also

mentioned in CNICs of both petitioners being their permanent address. However, it reflects that vide letter dated 26.02.2014 the District Education Officer Hyderabad requested the Deputy Commissioner Hyderabad for verification of PRCs of petitioners despite the fact that PRCs and certificates of the petitioners were not disputed. The Assistant Commissioner Taluka Hyderabad in its report dated 31.12.2014 [*at page-137*] has opined that neither petitioners are residing at given address nor titled village existed in Deh Panhwari Taluka Hyderabad. The said report of the Assistant Commissioner did not say that domicile certificates and PRCs issued in favour of the petitioners were false or bogus. Record reflects that the petitioners were residing in village Jamadar Pandhi Khan Panhwar since their forefathers, which fact has been established by placing on record manual NIC of the grandparents. In presence of such undisputed documents the report of the Assistant Commissioner lost its evidentiary value. The presumption of the authenticity was attached with documents viz. NIC of grandparents of the Petitioners, CNICs of the Petitioners and their father Rasool Bux, Domicile and PRCs of the Petitioners and their father which were issued by the competent authority, much prior to the advertisement. It is pertinent to notice that in all the documents placed on record the address of the Petitioners reflected as Husri. The report of the Assistant Commissioner was not sufficient to hold that the domicile and other documents of the Petitioners were not genuine unless it was confirmed from the concerned office. During the scrutiny of documents by DRC the domicile certificates of Petitioners showing the address of relevant UC Husri were found genuine, thus shall be deemed to authentic and reliable documents. The denial of the appointment to the petitioners on the report of Assistant Commissioner thus was not tenable under the law and could not sustain. If on the basis of such sketchy reports of revenue officers the meritorious candidates would be knocked out, it will lionize such officers and they will start victimizing the people on the pretext that whatever they will report it will stand sanctified as gospel truth.

8. The examination of the undisputed record placed before us, leads to an irresistible conclusion that Petitioners were residents of Union Council Husri. They were deprived of the right to appointment, despite of securing 2nd and 7th position in the concerned UC Husri as against Eight Vacancies.

The Petitioners were not dealt with in accordance with law and refused appointment despite having successfully crossed all the barriers. The respondents failed to comprehend that job to a woman in public sector department means a lot and it uplifts her status in the family environment and makes her financially independent. Though the right to job was not a vested right but it cannot be crushed once she/he establishes the same through due process of law as was the case of the petitioners.

9. The appointment in a civil service was purely an administrative domain and an internal affair of the department. Undue interference in the internal affairs of the Department might result in judicial overreach or sometimes in encroachment of the powers as admittedly this Court was not an appellate authority the department. It is always expected that the department while conducting recruitment, conforms to the standards set forth in the recruitment laws and strictly adheres to the transparency and merit. This Court sparingly interferes in the recruitment issues, but unhesitatingly exercises the powers of judicial review when found that a meritorious candidate was denied the right of appointment under extraneous considerations and beyond the bounds of law. In the case of Petitioners to the own admission of the education department that they remained successful but were not considered for job over trivial issue. Petitioners were not dealt in accordance with law and their right to job was compromised with mala fide intentions to accommodate the persons of choice and once the mala fides of the fact are established, any action taken in respect of the said person or group of persons cripples and losses its sanctity. The Respondents have trodden over the rights of petitioners in arbitrary, capricious and through unfair means, by giving them a discriminatory treatment which militated the spirit and mandate of Articles 4, 25 and 27 of the Constitution of the Islamic Republic of Pakistan, 1973 guaranteeing fundamental rights as to equality and equal protection of the law in all matters including service.

10. Adverting to the issue of laches agitated by Learned A.A.G. It is settled law that delay in lodging a claim hampers the grant of right that accrued at a point of time and upon which the claimant slept over. In the present case we do not find that the petition is hit by laches as petitioners

have remained vigilant all along. Petitioners remained pursuing their right before respondents from the day when result of the test was announced. Besides case of the petitioners remained hanging with the respondents until the year 2022 when fresh DRC was conducted pursuant to the orders dated 18.03.2018 and 26.01.2022 passed by this Court in C.Ps No.D-440 and 1836 of 2014. This petition was preferred in the month of September 2022 soon after the decision of DRC depriving petitioners of the right of appointment. Even otherwise, law of laches was not of universal application. The doctrine of laches cannot be applied in every case as a hard and fast rule without examining the dictates of justice, equity and fair play. In the case of Petitioners, they were the respondents to act fairly, justly and to discharge their duties by issuing appointment orders to the petitioners being successful candidates securing 2nd and 7th position in the merit lists as against the Eight vacant positions. Under no circumstances respondents be absolved of such obligation or responsibility and inaction on the part of the respondents created a recurring cause of action for petitioners. Non-suiting the petitioners on nitty-gritties would tantamount to perpetuate injustice and offend the foundational concept of the law that a right must go to a person to whom it belongs.

11. For the aforementioned reasons, We are of the considered view that the petitioners have successfully made out a case for indulgence by this court to exercise the powers of judicial review conferred under Article 199 of the Constitution of Islamic Republic of Pakistan 1973. Consequently, this petition is allowed. The respondents are directed to issue appointment orders to the petitioners for the post of Primary School Teacher within a period of 60 days from today failure whereof shall be deemed to be defiance of the Court orders and appropriate action shall follow.

12. For the completeness of record it is necessary to observe that the recruitment process for the Post of PST under the instant petition was initiated in the year 2012 and culminated in the year 2022 and by now period of more than 13 years has elapsed, which might have affected the right of the petitioners for want of the age determined by the competent authority for induction in job. It is, therefore, made clear that the petitioners shall not be refused appointment or the benefits of the service on this ground; as the

petitioners were never at fault and did not contribute towards the delay of 13 years. The period that elapsed due to the apathy of respondents shall be deemed to be sufficient ground for the condonation of the upper age of the Petitioners, if any, and the same shall be deemed to have been relaxed. However, the Petitioners shall not claim past seniority and service benefits, which shall commence from the date of joining their duty. Even otherwise the age of a candidate is determined on the basis of cut of date for submission of application provided in the advertisement, which per record, petitioners were within the framework of law and rules. It is further made clear that the appointment of petitioners shall not affect the rights of the candidates who were already appointed, as the said appointees were not at fault in getting appointment letters and cannot be penalized.

13. Before parting with the order, it is pertinent to mention that we were allowing this petition with cost, however, learned Assistant A.G Sindh pointed out that the respondents, who have played with the lives of the petitioners, might have retired, as such cost may not be imposed. At the request of learned AAG we do not impose any cost against the respondents, however, it is expected that all the officials who are engaged in recruitment process shall remain careful in future.

14. Petition stands disposed of in the above terms. Office to send copy of the judgment to the Respondents for compliance.

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Sajjad Ali Jessar
Approved for reporting
Hyderabad
16.10.2025