

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

*Constitution Petition No. D- 447 of 2026.
(Javed Hussain Mahar vs. Province of Sindh and others)*

***Before:-
Mr. Justice Amjad Ali Bohio,
Mr. Justice Ali Haider 'Ada'.***

Petitioner : Javed Hussain Mahar, *through*
Mr. Shabbir Ali Bozdar, Advocate.

Respondents : Province of Sindh and others,
through Mr. Ali Raza Balouch,
Additional Advocate General.
Iftikhar Ahmed Arain, Conservator
of Forests, Circle Sukkur, and
Ziadullah Leghari, Divisional Forest
Officer, Ghotki @ Mirpur Mathelo,
are present in person.

Date of Hearing: 14.05.2026.
Date of Order: 14.05.2026.
Date of Reasons: 19.05.2026.

ORDER

Ali Haider Ada J:- This petition pertains to assailing the action of the Conservator, Forest Afforestation Circle, Sukkur, whereby the fishery contract awarded to the petitioner was cancelled on account of allegations of cutting of trees, violation of the Sindh Wildlife Protection laws, and non-payment of the scheduled fee.

2. The matter pertains to the fact that the petitioner was awarded a fishery contract for three years, which was to expire in mid-June 2027. However, on 14.01.2026, a show-cause notice was issued by the Forest Department against the petitioner, wherein allegations regarding the cutting of trees, violation of the Sindh Wildlife Protection laws, and non-payment of the scheduled fee were leveled. The petitioner submitted his reply, and thereafter, upon completion of codal formalities, the cancellation letter was issued vide order dated 24.02.2026. The same has been impugned through the instant petition.

3. In response, para-wise comments were filed by Respondent No.3 (Conservator of Forest, Afforestation Circle, Sukkur) and Respondent No.4 (Divisional Forest Officer), wherein it has been emphasized that the petitioner was involved in breach of contract. It was stated that only fishery rights were awarded to the petitioner; however, he engaged in cutting of trees and violated environmental safeguards. It was further stated that he also violated the Sindh Wildlife Protection laws and committed default in payment.

4. The petitioner filed a rejoinder denying the comments. However, the respondents filed their statement along with relevant provisions of law relating to forest administration, including rules framed under the Forest Acts and regulations.

5. Learned counsel for the petitioner argued that there is no truth in the allegations that the petitioner was involved in cutting of trees. It was further contended that it was for the respondents to issue challan, which could have been paid, and that the petitioner was not involved in any activity violating wildlife protection laws. Therefore, the cancellation order is without justification and liable to be set aside.

6. On the other hand, learned Additional Advocate General contended that there was no mala fide intention or ulterior motive on the part of the respondents in cancelling the contract. It was submitted that the petitioner was fully involved in violations; therefore, the cancellation was based on gross breach, and the action of the government functionaries was just and proper. Furthermore, the learned Law Officer produced a letter along with the draft of the Sindh Forest (Amendment) Act, 2025, pertaining to amendments proposed in the Sindh Forest Act, 1927.

7. Heard learned counsel for the parties and perused the material available on record, as well as examined the relevant law and provisions

8. At the very outset, the relevant provisions of law have been examined, and the entire scheme of the enactment has been scrutinized. **Section 2(h) of the Forest Act, 1927** defines “forest produce,” while **Section 3** provides that the Government may constitute any forest-land or waste-land, which is the property of Government or over which it has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled, as a reserved forest in the manner provided therein.

9. Likewise, in the context of protected forests, **Section 29** relates to forest-land or waste-land which is not included in a reserved forest, but which is the property of Government or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled. For ready reference, the relevant provisions are reproduced as under:

2 (h) “forest produce” includes the following, whether found in or brought from a forest–

(i) timber, firewood, charcoal, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds (kuth) and myrobolam;

(ii) tree and leaves, flowers, seeds and fruits, and any other part or produce not hereinbefore mentioned, of a tree;

(iii) plant not being a tree (including shrub, grass, creeper, reed, moss, mushroom, herb, medicinal plant and brushwood) and any other part or produce of a plant;

(iv) wild animal and skin, tusk, horn, bone, silk, cocoon, honey, wax and any other part or produce of an animal;

(v) peat, surface soil, rock and mineral (including limestone, laterite, mineral oil, and any other product of mines or quarries);

(vi) natural spring; and

(vii) any other produce which may be notified as forest produce by the Government.

Section 3. Powers to reserve forest.– *The [Government] may constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.*

29. Protected forests.– (1) The [Government]] may, by notification in the 5 [Official Gazette], declare the provisions of this Chapter applicable to any forest-land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest- produce of which the Government is entitled.

(2) The forest-land and waste-lands comprised in any such notification shall be called a “protected forest”.

(3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the [Government]] thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved: Provided that, if, in the case of any forest-land or waste-land, the [Government]] thinks that such inquiry and record are necessary, but that they will occupy such length of time as in the meantime to endanger the rights of Government, the [Government]] may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

10. Nonetheless, there is also a bar on the accrual of forest rights as provided under **Section 5 of the Forest Act, 1927**, which stipulates that no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of the Government, or by a person in whom such right was vested at the time the notification was issued. For ready reference, the same is reproduced as under:

5. Bar of accrual of forest-rights.– After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or [on behalf of the [Government]] or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land except in accordance with such rules as may be made by the [Government]] in this behalf.

11. Now, there are also penal consequences provided under **Section 26 of the Forest Act, 1927**, which deals with acts prohibited in reserved forests. In particular, clause (k) relates to contravention of rules regarding hunting, shooting, **fishing**, or setting up traps or snares. Thus, any fishing activity carried out beyond the scope of a

lawful contract also falls within the ambit of such contravention. Accordingly, Section 26(k) of the Forest Act, 1927 is reproduced hereunder for ready reference:

[26. Offences relating to reserved forests.- (1) A person, who in a reserved forest-

(k) contravenes any rules relating to hunting, shooting, fishing, or setting up traps or snares;

12. Furthermore, the **West Pakistan Forest Manual, Volume I Chapter IV, under the heading "Shooting, Hunting and Fishing Rules,"** provides the relevant regulatory framework. The rules framed therein, titled "General Rules regarding Shooting, Hunting and Fishing in Reserved and Protected Forests," have been issued under Section 26(i) and Section 32(i) of Act XVI of 1927. These rules were notified vide Notification No. 76 dated 7th May, 1891, and subsequently amended by Notification No. 2513 dated 15th February, 1917, in supersession of Notification No. 208 dated 2nd May, 1879. The same are read as under:-

1. The setting of snares and traps the use of small mesh nets to catch or of dynamite to destroy fish, and the poisoning of water , are prohibited.

2. Hunting or shooting with elephants and with large parties of beaters is prohibited

3. The Conservator of Forests may declare and publicly notify and Reserced or Protected Forests or portion of such forest for such periods as may be necessary when it is desirable in his judgment so to close such forest or portion of a forest.

13. Thus, the action taken by the Forest Department/respondents against the petitioner, regarding the violations and contraventions, was duly addressed through issuance of show-cause notice as well as final show-cause notice. Mere verbatim denial by the petitioner cannot be relied upon, particularly when no arbitrary or mala fide action has been demonstrated. It is well recognized that, in the absence of proof of arbitrariness, mala fide, or action taken without lawful authority or beyond jurisdiction, the constitutional jurisdiction of this Court under Article 199 of the Constitution of

Pakistan is not to be invoked to interfere in the administrative functions of government functionaries carried out in the ordinary course of business. In the present case, the petitioner has failed to establish any such illegality or jurisdictional defect; therefore, no case for interference is made out. Moreover, the controversy raised by the petitioner involves disputed questions of fact, which cannot be adjudicated in the Constitutional jurisdiction of this Court. Reliance in this regard is placed on **FAREEDULLAH KHAN versus PROVINCE OF BALOCHISTAN through Secretary C&W Department Government of Balochistan , 2025 SCMR 2081, Special Secretary-II (Law and Order), Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar and others v. Fayyaz Dawar (2023 SCMR 1442), Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others v. Intizar Ali and others (2022 SCMR 472), Province of Punjab through Secretary Communication and Works Department, Lahore v. Yasir Majeed Sheikh and others (2021 SCMR 624), and Messrs Fateh Yarn (Pvt.) Ltd. Faisalabad v. Commissioner Inland Revenue Faisalabad and others (2021 SCMR 1133).**

14. In continuation thereof, from an academic perspective, criminologists have developed various classifications of crime based on social context and the nature of the offence. In this regard, the term “**green criminology**” was introduced by Michael J. Lynch in 1990, and later expanded by Nancy Frank and Michael J. Lynch in their 1992 work *Corporate Crime, Corporate Violence*, wherein the political-economic origins of environmental harm and the scope of environmental law were examined. Such discourse also recognizes “green crimes, while “**green-collar crime**” refers to offences having environmental impact within the framework of environmental criminology.

15. In the context of environmental protection, the cutting of trees directly impairs the intergenerational right of future generations to a clean and healthy environment. Climate change is no longer a distant threat but a present reality. It is, therefore, imperative

through judicial pronouncements and jurisprudential development to safeguard future generations from the adverse effects of climate change by upholding climate justice at all times. Forests serve as natural rainfall catchment areas and provide protection against flooding and avalanches. In the **Shah Zaman Khan and others v. Government of Khyber Pakhtunkhwa (PLD 2023 SC 340)**, the Honourable Supreme Court of Pakistan emphasized the importance of forests, wherein it has been held as under:

“22. Climate change is not just a future threat but a present reality. The planet is in crisis and disasters are accelerating disasters. Climatic events of unprecedented severity are being witnessed. The unilateral and unsustainable pillage of the earth’s resources has left humanity, and all other species, vulnerable. Excessive burning of fossil fuels has heated up the earth’s temperature and when forests, which sequester carbon emissions are stripped away, its effect is compounded. Carbon fuel extraction needs to correlate with the available trees, plants and phytoplankton which store emissions. The causes of climate change and the catastrophic events that it unleashes are (by now) empirically established, yet the problem is not being addressed with the requisite urgency and seriousness. Simple mitigation measures are also not implemented. Carbon emissions, and not trees, have to be cut down. The learned Judges failed to consider that the Forest Ordinance was a beneficial piece of legislation which was enacted to conserve scarce remaining forests.”

16. Further, in this regard, reference may also be made to the judgment of the Supreme Court of Pakistan in the case of **D.G. Khan Cement Company Ltd. v. Government of Punjab, (2021 SCMR 834)**, wherein the significance of the environment and ecosystem of the country has been emphasized. It was held as under:

“19. Another important dimension of climate change is intergenerational justice and the need for climate democracy. The tragedy is that tomorrow’s generations aren’t here to challenge this pillaging of their inheritance. The great silent majority of future generations is rendered powerless and needs a voice. This Court should be mindful that its decisions also adjudicate upon the rights of the future generations of this country. It is important to question ourselves; how will the future generations look back on us and what legacy we leave for them? 41 This Court and the Courts around the globe have a role to play in reducing the effects of climate change for our generation and for the generations to come. Through our pen and jurisprudential fiat, we need to

decolonize our future generations from the wrath of climate change, by upholding climate justice at all times. Democracy, anywhere in the world is pillared on the rule of law, which substantially means rights based rule of law rather than rule based; which guarantees fundamental values of morality, justice, and human rights, with a proper balance between these and other needs of the society. 42 Post climate change, democracies have to be redesigned and restructured to become more climate resilient and the fundamental principle of rule of law has to recognize the urgent need to combat climate change. Robust democracies need to be climate democracies in order to save the world and our further generations from being colonized at the hands of climate change. The preambular constitutional value of democracy under our Constitution is in effect climate democracy, if we wish to actualize our Constitution and the fundamental rights guaranteed under the Constitution for ourselves and our future generations. Janine Benyus 43 suggests we learn from nature's 3.8 billion years of evolution. How is it that other species have learned to survive and thrive for 10,000 generations or more? Well, it's by taking care of the place that would take care of their offspring, by living within the ecosystem in which they are embedded, by knowing not to foul the nest. We must restore and repair and care for the planetary home that will take care of our offspring. For our children, and our children's children, and all those yet to come, we must love our rivers and mountains and reconnect with the long and life-giving cycles of nature. To us there is no conflict between environmental protection and development because our answer would be sustainable development Sustainable development means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs and it is in step with our constitutional values of social and economic justice."

17. Recently, a Larger Bench of the Supreme Court of Pakistan, in the case of **Mehar Badsha v. Government of Khyber Pakhtunkhwa, (PLD 2025 SC 36)**, has discussed the importance of forests in human life and highlighted the adverse effects of cutting of trees. The relevant portions from paragraphs 5 and 6 of the said judgment are reproduced below for ease of reference:

"5... ..It is, however, commendable that the right to a clean, healthy and sustainable environment has now been specifically incorporated into the Constitution which undoubtedly will help preserve flora and fauna and the natural environment. It has by now been established that a viable future is dependent on preserving and conserving the environment and adopting sustainable environmental practices.

6. Forests are natural rainfall catchment areas, and they also ensure against flooding and avalanches. The rain water flowing in to the streams and rivers must not be polluted. Unfortunately and

regrettably sewage and industrial waste are released into water bodies killing the life bearing quality of water. The effects of deforestation and pollution long outlast lives. Trees are equally important in sequestering green house gases released by burning fossils fuels. Environment has an importance place in Islam and there are innumerable verses of the Holy Qur'an which mention the natural environment and the rights of all living things. There are also many saying of Prophet Muhammad (peace and blessings be upon him) stressing the necessity to preserve the natural environment, including protecting tress and animals and birds.

18. For the foregoing reasons, it is manifest that we are presently confronted with grave environmental challenges and alarming conditions. However, this does not imply that efforts to address such issues should falter; rather, sustained and incremental measures must continue, for *“great oaks grow from small acorns.”* The law, therefore, cannot remain passive, as *salus populi suprema lex* (the welfare of the people is the supreme law) demands active protection of environmental interests and the rights of future generations.

19. Accordingly, those who violate environmental safeguards and green policies, and thereby harm the ecological balance and the future of coming generations, must be dealt with strictly in accordance with the law.

20. This constitutional petition having been dismissed vide short order dated 14.05.2026, the above are the detailed reasons thereof.

21. In the backdrop of the foregoing discussion, it is evident that the issue concerning the absence of a comprehensive and updated legislative framework governing forest administration in the Province of Sindh has repeatedly engaged the attention of this Court, including in C.P. No. D-1115 of 2009 and connected Constitutional Petitions bearing C.P. No. D-3980 of 2023 and C.P. No. D-3395 of 2024. The consistent concern of this Court has been the urgent need to establish an effective statutory regime for protection and administration of forest resources in Sindh, in line with legislative measures adopted by other provinces. From the progress report submitted by the learned Additional Advocate

General on behalf of the Law Department, it appears that the draft of the Sindh Forest (Amendment) Act, 2025 has already been duly vetted under the Sindh Government Rules of Business, 1986, and communicated to the Forest & Wildlife Department for further necessary action, including placement before the Provincial Cabinet. Accordingly, the Secretary, Forest & Wildlife Department, Government of Sindh, is directed to complete all codal formalities and place the vetted draft before the Provincial Cabinet strictly in accordance with Rule 45(iv) of the Sindh Government Rules of Business, 1986, without any unnecessary delay. Upon approval by the Cabinet, the Bill shall be promptly processed for introduction before the Provincial Assembly of Sindh in accordance with law. The Chief Secretary, Sindh, and the Secretary, Law, Parliamentary Affairs & Criminal Prosecution Department, shall ensure supervision and facilitation of the process so that the legislative mandate is achieved within a reasonable timeframe. A comprehensive compliance report, reflecting substantial progress in the matter, shall be submitted before the learned Additional Registrar of this Court within sixty (60) days. The office shall thereafter place the same before this Court for appropriate orders. Non-compliance with these directions shall entail consequences in accordance with law.

JUDGE

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