IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Mr. Justice Muhammad Saleem Jessar;
Mr. Justice Abdul Hamid Bhurgri.

C.P No.D-7323 of 2026
[Hussain Ahmed v. Federation of Pakistan and others]

Petitioners	:	Through Mr. Basheer Ahmed Ghoto, Advocate.
Respondents	:	Nemo.
Date of Hearing	:	06.11.2026
Date of Order	:	06.11.2026

O R D E R

Abdul Hamid Bhurgri, J.- Through this Constitution Petition, the petitioner, claiming to be the sole proprietor of M/s Brothers Transport, seeks a declaration that the failure of respondents No.2 and 3 to decide his claim arising out of the project process, alleged approval, issuance of invoice and acceptance of security deposit is arbitrary, unlawful and violative of Articles 4, 10-A, 18, 23 and 24 of the Constitution. He further seeks directions against the concerned respondents, including FWO/SCORE, to honour their alleged commitments and extend consequential relief.

2. Learned counsel for the petitioner submits that the petitioner participated in the project arrangements pursuant to a joint venture and that the subsequent conduct of the respondents, including the issuance of an invoice and acceptance of security deposit, created enforceable rights in his favour. It is contended that the respondents, being public functionaries, are under a legal obligation to act fairly and decide the petitioner's claim in accordance with law. We have heard learned counsel and examined the material placed on record, particularly the joint venture arrangement and the Special and Limited Power of Attorney relied upon for institution of these proceedings.

3. The foremost question requiring determination is whether the controversy, notwithstanding its contractual origin, involves the enforcement of an identifiable statutory or public-law duty so as to attract the extraordinary jurisdiction of this Court

under Article 199 of the Constitution. The answer must be found in the substance of the claim rather than the form in which the relief has been couched. The Supreme Court has consistently held that contractual rights and obligations are ordinarily enforceable before the competent forum and that constitutional jurisdiction cannot be invoked as a substitute for ordinary civil remedies[1]. More particularly, in ***Messrs Sprint Oil and Gas Services Pakistan FZC v. Oil and Gas Development Company Limited***[2], the Supreme Court held that where determination of a controversy requires interpretation of contractual terms, examination of disputed facts or recording of evidence, the High Court ought not to exercise jurisdiction under Article 199, particularly where an adequate remedy is otherwise available.

4. Examined against these principles, the petitioner's claim essentially rests upon the alleged contractual arrangements, their legal effect and the obligations purportedly arising therefrom. Whether the joint venture conferred any independent enforceable right upon the petitioner; whether the alleged approval, invoice or security deposit constituted acceptance of any contractual obligation; and whether the respondents committed any breach are questions which cannot be conclusively determined without examining the relevant documents, their terms and the surrounding circumstances. The mere involvement of a public-sector organization does not, by itself, transform every contractual grievance into a public-law dispute. Nor can the invocation of Articles 4, 10-A, 18, 23 and 24 of the Constitution dispense with the requirement of establishing an independent constitutional or statutory right. No specific statutory obligation, distinct from the alleged contractual commitments, has been demonstrated which could justify issuance of a constitutional direction in the circumstances of the present case.

5. There is also an issue concerning the institution of the petition through Musa Khan on the strength of a Special and Limited Power of Attorney. The instrument describes Brothers Transport as the principal and authorizes the attorney to institute and prosecute

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[1] *Pakcom Limited and others v. Federation of Pakistan and others (PLD 2011 SC 44), particularly paragraph 47.*

[2] *Messrs Sprint Oil and Gas Services Pakistan FZC v. Oil and Gas Development Company Limited (2024 SCMR 117), particularly paragraphs 9-12.*

legal proceedings. However, it does not expressly identify Hussain Ahmed as the sole proprietor or clearly establish the capacity and authority of the person executing the instrument on behalf of the firm. Although the instrument confers powers relating to litigation, the authority of the executant must necessarily be traceable to the person whose rights are sought to be enforced. Nevertheless, we do not consider it necessary to return a conclusive finding on this aspect, since even assuming that the petition has been duly instituted through a competent attorney, the substantive controversy remains outside the permissible scope of constitutional adjudication.

6. The Supreme Court in ***Special Secretary-II (Law and Order), Home and Tribal Affairs Department v. Fayyaz Dawar***[3] has reiterated that disputed questions of fact requiring an elaborate inquiry cannot ordinarily be adjudicated in constitutional jurisdiction. The jurisdiction under Article 199 is supervisory and extraordinary; it is neither intended to determine contested contractual entitlements nor to replace the forum competent to receive evidence and adjudicate civil rights. The petitioner's request for a direction to decide his claim cannot overcome this jurisdictional impediment where the underlying entitlement itself is disputed and founded upon contractual arrangements.

7. For the foregoing reasons, we are satisfied that the petitioner has failed to establish a case warranting interference under Article 199 of the Constitution. Consequently, this Constitution Petition is dismissed in *limine* as not maintainable, along with pending applications, if any. It is, however, clarified that we have not expressed any opinion on the merits of the petitioner's contractual claim, which may be pursued before the competent forum, if so advised, subject to limitation and all other legal requirements. Any such proceedings shall be decided independently, uninfluenced by the observations made herein concerning maintainability.

JUDGE

JUDGE
HEAD OF CONST. BENCHES

Ayaz Gul

[3] *Special Secretary-II (Law and Order), Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa and others v. Fayyaz Dawar (2023 SCMR 1442), particularly paragraph 8.*