

Order Sheet  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT, HYDERABAD

**CP No. D- 807 of 2020**

**BEFORE :**

Mr. Justice Abdul Maalik Gaddi

Mr. Justice Adnan-ul-Karim Memon

Date of hearing & decision: 25.08.2020

Petitioner : Jagdesh R. Mullani, in person

Respondent No.1 : through Mr. Ghulam Shabbir Shar, Advocate

Respondent No.2 : Nemo.

Respondent No.3: through Mr. Allah Bachayo Soomro, Addl.A.G.

Respondent No.4 : Mr. Farhad Ali Abro, in person & Mr. Ayaz Hussain Tunio, Advocate

On Court notice : Mr. Muhammad Humayoon Khan, D.A.G.

**ORDER**

**ADNAN-UL-KARIM MEMON, J:** - Principally, through instant Petition, the Petitioner has asked for issuance of Writ against Respondent No.4 to vacate the office of Acting President Sindh High Court Bar Association, Hyderabad (SHBAH) and seeking declaration to the effect that the orders dated 01<sup>st</sup> June 2020 and 08<sup>th</sup> June, 2020 respectively passed by Sindh Bar Council and Chairman Appeal Committee Pakistan Bar Council (Sindh) are illegal, void *ab initio* and contrary to the Legal Practitioners Bar Council Act, 1973, and Pakistan Bar Council Rules 1986. He also seeks direction to Sindh Bar Council to issue Notification in his favour as President Sindh High Court Bar Association, Hyderabad after elevation of earlier President as Member Election Commission of Pakistan on the ground that he being contesting candidate, having secured highest number of votes next after the member, is entitled to be appointed as President Sindh High Court Bar Association, Hyderabad. Petitioner in support of his version has heavily relied upon paragraph 15 of the Memorandum and Articles of Association of Sindh High Court Bar Association Hyderabad, coupled with Rule 21 of the Bar Association (Recognition) Rules, 2017 (Model Bye-Laws) framed by Sindh Bar Council.

2. The case of the petitioner in bird's eye view is that the Petitioner contested the Election for the post of President Sindh High Court Bar Association Hyderabad, held in the month of February-March 2020. In the final result, Mr. Nisar Ahmed Durrani, Advocate was declared as successful candidate for the aforesaid post. However due to his appointment, as Member Election Commission of Pakistan (Sindh), the seat of President Sindh High Court Bar Association Hyderabad was fallen vacant. Keeping in view the aforesaid position, respondent-Sindh Bar Council issued office Order dated 1<sup>st</sup> June 2020 whereby respondent No. 4 namely Farhad Ali Abro Advocate was nominated as Acting President Sindh High Court Bar Association Hyderabad till filling up the vacant post in next Election. Petitioner being aggrieved by and dissatisfied with the office Order dated 1<sup>st</sup> June 2020, challenged the same before Secretary Pakistan Bar Council by filling an application; however, he was non-suited by the competent authority of Pakistan Bar Council vide office Order dated 8<sup>th</sup> June 2020 with certain reasoning. Petitioner being aggrieved by and dissatisfied with the aforesaid orders has filed the instant petition. For the sake of convenience, the relevant portion of the office orders dated 1<sup>st</sup> June 2020 and order dated 8th June 2020 are reproduced as under:

"NOTIFICATION

*It is hereby notified that due to elevation of the President High Court Bar Association Hyderabad Mr. Nisar Ahmed Durrani as Member Election Commission of Pakistan, the Vice-President Mr. Farhad Ali Abro shall be acting as President High Court Bar Association Hyderabad till next Elections of HCBA Hyderabad. This is for the general information.*

Karachi  
Dated 01-06-2020

Sd/-  
SHAFQAT RAHIM RAJPUT  
(CHAIRMAN)

Sd/-  
TARIQ MEHMOOD A. KHAN  
(MEMBER)

Sd/-  
MANZOOR HAMEED ARAIN  
(MEMBER)".

"ORDER  
08-06-2020

.....

(ii) After careful consideration of the matter I am of the view that the contention of the applicant looks to be misconceived as the notification of the runner up candidate for membership of a Bar Council in case of occurrence of a vacancy of its membership is specifically provided for in the relevant provisions of the Legal Practitioners & Bar Councils Act, 1973 and the Rules made there-under whereas there is no such provision in relevant Rules in respect of different offices/posts of Bar Association. It is further observed that so far as the election of Bar Association is concerned that are held for different offices as provided in the Rules of Bar Associations as well as concerned Provincial Bar Council. Once a person is elected to an office of a Bar Association through due election process for the specific term of office he is to hold that office for the full term and if during that term a vacancy of an office of the President occurs there is no provision to notify the runner up candidate against the vacant office as it is done in case of the membership of

*a Bar Council. On the contrary in case of vacancy of an office of the President of a Bar Association occurs, against such a vacancy normally the Vice-President is notified to act as President for the remaining period of the term till the next election. It may also be added that the election of the HCBA, Hyderabad are supposed to be held very shortly.*

*(iii) In view of above petition of the matter the application being devoid any merit, is dismissed and the Notification No.262/SBC/2020 dated 01-06-2020 issued by the Sindh Bar Council is upheld.*

*(iv) Order accordingly.*

SD/-  
(GHULAM SHABBIR SHAR)  
CHAIRMAN"

3. Notices were issued to Respondents and the Respondent No. 04 filed his para-wise comments and denied the allegations leveled against him.

4. We queried from learned counsel for the petitioner as to how this petition is maintainable against Sindh High Court Bar Association Hyderabad and its office bearers, having no legal character in terms of Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

5. It is contended by the petitioner, who is present in person that Pakistan Bar Council and Sindh Bar Council are Statutory bodies, established under Legal Practitioners and Bar Councils Act, 1973 and such Bar Council registers the Bar Associations all over Pakistan, including Sindh High Court Bar Association Hyderabad and whatever the rules are framed for the Bar Associations, they are framed by their respective Bar Councils. On the maintainability of instant Petition, he contended that where no legal remedy is available to an aggrieved party during the process of election or after its completion, against an order of election functionary, which is patently illegal / without jurisdiction and the effect of which is to disfranchise a candidate, he can press into service constitutional jurisdiction of this Court, hence a petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, is competent. He contends that in absence of statutory rules, the petitioner has a vested right of hearing before any order adverse to his interest is passed by virtue of principle of Audi Alteram Partem which is the least requirement; that respondent-Pakistan Bar Council passed an order influenced mainly by the fact that the application moved by the petitioner to declare him for the post of President Sindh High Court Bar Association Hyderabad, was illegal, ab-initio, void and against the rules, if this was the position then it was necessary that before passing order of rejecting his application he should have been given an opportunity of hearing and thereafter a well reasoned order should have been passed but nothing has been done in

accordance with law. It is contended by him that respondent No.1 was biased one, therefore his ex-parte decision is nullity in the eyes of law; that the right of access to justice includes the right to be treated according to law, the right to have a fair and proper trial and a right to have an impartial forum; that the doctrine "due process of law" which is enshrined, *inter alia*, in Article 4 of the Constitution, it is intrinsically linked with the right to have access to justice which is a fundamental right. This right, *inter alia*, includes the right to have a fair and proper trial and a right to have an impartial forum; that a person cannot be said to have been given a fair and proper trial unless he is provided a reasonable opportunity to defend the allegation made against him; that Pakistan Bar Council was expected to act fairly and justly, in manner which should not give anyone any cause of complaint on account of discriminatory treatment or otherwise as per principle laid down in the case of "Shaukat Ali and others v. Government of Pakistan and others." (PLD 1997 SC 342). He next argued that a determination made and decision given by Pakistan / Sindh Bar Councils performing quasi-judicial functions having no jurisdiction, is nullity in the eyes of law; that the impugned orders passed by the statutory bodies i.e. Pakistan Bar Council as well as Sindh Bar Council are violative of section 24-A of the General Clauses Act, 1897. He next argued that when under any enactment a power to make an order or give a direction is conferred on any Authority, office or person; such power shall be exercised reasonably, fairly, justly and for advancement of the purposes of the enactment. So also such order or direction issued by the aforementioned persons shall be accompanied with reasons for the same and a copy of the said order shall also to be supplied to a person who is affected prejudicially thereto. He concluded by giving brief history of the case as well as citing various provisions of Legal Practitioners and Bar Council Act, 1973, Pakistan Legal Practitioners and Bar Councils Rules,1976, (Appeal) Rules 1986 and Sindh High Court Bar Association Hyderabad By-Laws, and prayed for allowing the instant petition. In support of his contention, he relied upon the cases of Arshad Jamal v. N.-W.F.P. FOREST DEVELOPMENT CORPORATION (2004 SCMR 468), MUHAMMAD ASGHAR V. MUZAMMAL KHAN and 2 others (2004 SCMR 747), Chaudhary LIAQUAT ALI and 8 others v. Mian MAQSOOD AHMED SHAHID and 3 others (2006 YLR 1749), Ch. RIYASAT ALI, ADVOCATE v. RETURNING OFFICER and 2 others (2003 CLC 1730), KARACHI DOCK LABOUR BOARD v. Messrs QUALITY BUILDERS LTD (PLD 2016 Supreme Court 121) , KINNARID COLLEGE FOR WOMEN through Principle v. MARIA ISABEL MALDONADO GARCIA (2015 CLC 1423),

Messrs NOORANI TRADERS, KARACHI through Managing Partner v. PAKISTAN CIVIL AVIATION AUTHORITY through Airport Manager, Karachi (PLD 2002 Karachi 83), AFTAB SHAHBAN MIRANI V. PRESIDENT OF PAKISTAN and others (1998 SCMR 1863), CHIEF JUSTICE OF PAKISTAN IFTIKHAR MUHAMMAD CHAUDHRY v. PRESIDENT OF PAKISTAN through Secretary and others (PLD 2010 Supreme Court 61).

6. Preliminary objection has been raised by Mr. Ghulam Shabbir Shar learned counsel for respondent No.1 that the petitioner was neither aggrieved person nor had any locus-standi to invoke the constitutional jurisdiction of this Court under Article 199 of the Constitution, 1973 as he has no vested right to call in question the validity of Election of President Sindh High Court Bar Association Hyderabad being runner up candidate in the election as discussed supra and in this regard while referring various provisions of Legal Practitioners and Bar Councils Act, 1973 argued that there is no provision in the Sindh High Court Bar Association Hyderabad By-Laws that a runner-up candidate can be declared successful candidate or appointed in case of any vacancy occurred; that the instant petition is also liable to be rejected being not maintainable, before this Court on the premise that the petitioner has failed to avail remedy as provided to him under the relevant law. We queried from him whether a runner up candidate can be appointed on occurrence of vacancy under Legal Practitioners and Bar Council Act, 1973 or under the Memorandum of Association of Sindh High Court Bar Association, Hyderabad. He replied that section 16 (b) of the Legal Practitioners and Bar Councils Act, 1973 provides that in case of a Provincial Bar Council, the vacancy shall be filled by the person who received, in the same election, the highest number of votes next after the Member the vacancy in whose seat is to be filled or if there be no such person, by a person eligible for election to that Council. He emphasized that this provision is only applicable in the case of Bar Councils and not in the matter of Bar Associations; therefore, the petitioner cannot claim to be appointed as President Sindh High Court Bar Association. He supported the impugned order dated 08.06.2020 passed by the Chairman Appeal Committee (Sindh) Pakistan Bar Council. We also posted another question to him that whether in case of any vacancy occurring in the Managing Committee or any other office of Bar Association on account of resignation, death or otherwise the post can be filled in by the Managing Committee, by co-option from the Members of the Bar Associations if qualified to be so elected for the post. He replied

that the aforesaid proposition cannot help to the case of petitioner for the simple reason that petitioner lost the election and in view of elevation of President of Sindh High Court Bar Association as member Election Commission of Pakistan, the acting charge for the post of President Sindh High Court Bar Association Hyderabad was given to the Vice President to look after the affairs of the Association till next election; that the aforesaid arrangement is interim in nature as such, no vested right can be claimed by the petitioner to be declared as President of Sindh High Court Bar Association. He lastly prayed for dismissal of captioned petition with heavy costs.

7. Mr. Ayaz Hussain Tunio, learned counsel representing respondent No.4 has adopted the arguments of learned for respondent No.1 and argued that the instant Petition is not maintainable under Article 199 of the Constitution of Pakistan, 1973 and is liable to be dismissed. In support of his contentions he heavily relied upon the documents attached with the para-wise comments filed on behalf of Respondent No.4 and order dated 13.03.2020 passed by learned Division Bench of this Court in C.P. No.D-1611 of 2020. An excerpt of the order is reproduced as under:

“4. Since all advocates present in court including representative of Pakistan Bar Council, Sindh Bar Council stated that elections should be conducted to an early date without any further delay and after arguing at some length, they have agreed to some modalities for conducting elections which are as follows:-

i. By consent Mr. Kamaluddin advocate is nominated as Chairman of the Election Committee, whereas, Mr. Hakim Ali Siddiqui advocate and Mr. Anwar H. Ansari advocates are nominated as members of the Election Committee. This Election Committee shall conduct elections of the Sindh High Court Bar Association Hyderabad 2020 on 11th April, 2020. After elections, this Election Committee after counting votes of the elections will announce the results and hand over the charge to the returned candidates/managing committee. The notification of the returned candidates shall be issued by Sindh Bar Council within next three days after receiving the results from the Election Committee.

ii. We expect that all three senior advocates nominated by consent for the purpose of conducting election will ensure their participation as senior members of the Bar so that the dispute raised for the elections will be settled and the elections shall be conducted in transparent and peaceful manner without hindrance, bias or favoritism to anyone. If they have some reservation, any member from the nominated Election Committee does not want to act; we leave it to the wisdom of the learned Chairman of the Committee to cope up any senior member of the Bar in order to comply with the order and to avoid further delay in the elections.

iii. Mr. Arshad Hussain Pathan advocate submits that list of voters/members have already been submitted to the Sindh Bar Council which was not verified but at the same time Mr. Ayaz Hussain Tunio advocate submits that he will also submit the list of members as he apprehends that some members of the association were dropped from the list submitted by the present managing committee. Let him submit his list of members also and the learned Vice Chairman of Sindh Bar Council will constitute Scrutiny Committee. By consent agreed that Mr. Ayaz Hussain Tunio advocate and Mr. Noor ul Amin Sipyo advocate shall be the members of Scrutiny Committee and chairman shall be nominated by the Vice Chairman, Sindh Bar Council.

iv. The Scrutiny Committee shall verify both voter lists and they will also consider the issue of dual membership of any member which is otherwise barred under Bar Association Recognition Rules, 2017. The Scrutiny Committee shall finalize the list of voters within five working days. The voter list shall be submitted to the Sindh Bar Council by Mr. Ayaz Hussain Tunio advocate on 16.03.2020 during working hours. The Scrutiny Committee shall finalize the list and hand over the verified list to the Chairman of the Election Committee Mr. Kamaluddin advocate on 24.03.2020. It is reiterated that the Election Committee shall conduct election on 11.04.2020 according to same schedule as circulated earlier except the date of elections.

v. The material with regard to election 2020 in possession of Mr. Arshad Hussain Pathan advocate shall be handed over to Mr. Waseem, Office Superintendent, Sindh High Court Bar Association Hyderabad. Mr. Sarfaraz Ali Metlo advocate submits that in view of this order, his clients are not interested to pursue their pending appeal No. 49/2020 which will be deemed to have been withdrawn; however, formal application shall be sent to the Pakistan Bar Council at Islamabad for consigning the appeal to record.

vi. At this juncture, Mr. Ayaz Hussain Tunio advocate submits that some nominations were accepted by the previous managing committee of the candidates who were not eligible as per Law. Mr. Arshad Hussain Pathan advocate submits that he scrutinized all the forms and accepted the nomination papers. Any person having any objection on the nomination he could have filed the appeal but no appeal has been filed. Mr. Tunio submits that appeal has already been filed to Sindh Bar Council. Mr. Muhammad Azam Khan advocate admits that appeal is pending. He undertakes that Executive Committee of Sindh Bar Council will decide the pending appeal within seven days after providing ample opportunity of hearing to the appellant and the person whose nomination has been accepted by the Committee.

vii. Mr. Arshad Hussain Pathan advocate submits that he has received some amount on account of nomination fee from different members of the Bar who filled their nomination papers for contesting the elections. He submits that this amount shall be deposited by him in the account of Sindh High Court Bar Association Hyderabad.

Let him deposit this amount and submit the receipt to the Chairman of the Election Committee and one copy shall also be given to the Superintendent, Sindh High Court Bar Association Hyderabad. The petition is disposed of along with pending applications. Copy of this order be transmitted to the Advocate General, Sindh, Vice Chairman, Sindh Bar Council, Vice Chairman, Pakistan Bar Council and the learned members of the Election Committee nominated by consent in this order.”

8. Mr. Muhammad Humayoon Khan, Deputy Attorney General on Court notice has argued that the order passed by this Court in C.P. No.D-1611 of 2020, needs to be implemented in its letter and spirit. He further submitted that proper election for the post of President Sindh High Court Bar Association Hyderabad shall be conducted as directed by this Court in the aforesaid proceedings.

9. Mr. Allah Bachayo Soomro, learned Additional. A.G has adopted the arguments of learned for respondent No.1 and seeks dismissal of instant petition.

10. We have heard the Petitioner who appears in person as well as learned Counsel for the parties and perused the material available on record and case law cited at bar.

11. The main questions of law arising in the instant matter stand on the following pivotal questions of maintainability:-

i. Whether Sindh High Court Bar Association Hyderabad was a 'person' performing public functions in connection with the affairs of Federation under Article 199(1) (a) of the Constitution?

ii. Whether a writ is maintainable against Sindh High Court Bar Association Hyderabad in terms of Article 199(1) (c) of the Constitution?

iii. Whether the order Dated 01<sup>st</sup> June 2020 and 08<sup>th</sup> June, 2020 respectively passed by Sindh Bar Council and Chairman Appeal Committee Pakistan Bar Council (Sindh) are contrary to the Legal Practitioners Bar Council Act, 1973, and Pakistan Bar Council Rules 1986?

12. It is an undisputed fact that Sindh High Court Bar Association Hyderabad is neither controlled by Federal / Provincial Government or Local Authority, nor is a statutory body and nor has its Statutory Rules to be enforced through writ petition.

13. To answer the aforesaid questions, we have noticed that Sindh High Court Bar Association Hyderabad does not satisfy the function test in terms of Article 199(5) of the Constitution as laid down by Honorable Supreme Court in the cases of Salahuddin and 2 others v. Frontier Sugar Mills and Distillery Ltd. Tokht Bhai and 10 others (PLD 1975 SC 244), Pakistan International Airline Corporation and others v. Tanweer-ur-Rehman and others (PLD 2010 SC 676), Anoosha Shaigan v. Lahore University of Management Sciences and others (PLD 2007 SC 568), Pakistan Red Crescent Society and another v. Syed Nazir Gillani (PLD 2005 SC 806) and Abdul Wahab and others v. HBL and others (2013 SCMR 1383) and Mirza MUHAMMAD NAZAKAT BAIG Versus FEDERATION OF PAKISTAN through Secretary Ministry of Law and Justice, Islamabad and another (2020 S C M R 631).

14. In our view Sindh High Court Bar Association Hyderabad is not a 'person' in terms of Article 199(5) supra, therefore no writ of Certiorari or Mandamus can be issued against its office holders, in terms of Article 199(1) (a) supra. Merely registration of Sindh High Court Bar Association Hyderabad under Pakistan Bar Council/Sindh Bar Council Rules does not confer the status of a public body; therefore, High Court Bar Association Hyderabad is not a person exercising functions in connection with the affairs of Federation / Province and Local Authority in terms of Article 199(1)(a)(i) and (ii) of the Constitution.

15. On the aforesaid proposition, we are fortified with a decision rendered by Honourable Supreme Court in the case of Pakistan Olympic Association through President and others v. Nadeem Aftab Sindhu and others (2019 SCMR 221).



16. Even otherwise the issue as raised in the present proceedings has already been settled by Honourable Supreme Court in the case of Mirza MUHAMMAD NAZAKAT BAIG Versus FEDERATION OF PAKISTAN through Secretary Ministry of Law and Justice, Islamabad and another (2020 SCMR 631). For convenience sake, an excerpt of the order is reproduced as under:-

*“8. The next question that needs to be addressed is whether the Supreme Court Bar Association of Pakistan Rules, 1989 are statutory in nature which is yet another reason that correctly prevailed with the learned Division Bench of the High Court in recording a finding that the constitutional jurisdiction cannot be invoked against the Supreme Court Bar Association. This question came up for hearing before a Division Bench of the Lahore High Court in the case of Abdul Sattar Chughtai Malik v. Pakistan Bar Council through Secretary and another PLD 2007 Lahore 170). The following excerpt from the said judgment elaborates correctly interprets the law on the subject and is reproduced below:-*

*"8. The rules are not statutory in nature, therefore, any violation of the statutes, regulations or rules would not attract the Constitutional jurisdiction of this Court under Article 199 of the Constitution. In this context reference can be made to the cases of Dr. M. Afzal Beg v. University of Punjab and others (1999 PLC (C.S.) 60), Khalid Hussain v. The Chancellor, (Governor of Punjab) and others (NLR 1995 CLJ 219), Muhammad Umar Malik v. The Muslim Commercial Bank through its President, Karachi and 2 others (1995 SCMR 453) and Anwar Hussain v. Agricultural Development Bank of Pakistan and others (PLD 1984 SC 194).*

*10. The Parliament is the law-making authority. It passes the Acts and empowers the Government under the relevant Act to make Rules for carrying on the business. A statute is the formal "expression" in writing of the will of the legislative organ in a State. A 'Statute' is a declaration of the law, as it exists or as shall be from the time at which such statute is, to take effect. It is usually called an Act of the Legislature. It expresses the collective will of that body. A Statute is the highest constitutional formulation of law, the means by which supreme legislature, after the fullest deliberation expresses its final will.*

*11. "Statute law" is defined as the will of the nation, expressed by the Legislature, expounded by the Courts of Justice. If the Parliament is not in session then the laws are enforced through the Ordinances issued by the President or the Governor expressing will of the nation as the case may be. So, the Act passed by the Parliament and the Ordinance issued by the nation would be called the "Statutory Law".*

*12. The Rules framed under the powers conferred by an Act are integral part of the Act and these Rules are called Statutory Rules and these are held to be part of the parent Act. It can do anything if within its scope. The Rules or the Bye-Laws made under the Statutes or Act cannot over ride the provisions of other Statute. Neither the Rules control the construction to be placed on the provisions of the Act nor they can enlarge the meaning of the section. The Rules are framed under the Act in aid to construction of ambiguous Statutes. The Rules under the Act shall be made by the Authority, empowered under the Act to frame the Rules or Bye-Laws. No other authority who is not empowered under the Act make the Rules. A Rule Making Body also cannot frame the Rules in conflict with or derogating from the substantive provisions of law or Statute under which the Rules are framed.*

*14. The Supreme Court Bar Association is a Body, the Organization of lawyers, who are entitled to practise in the Supreme Court of Pakistan it has not been constituted under any Act of the Parliament. It is a non-statutory body, therefore, conditions or rules*

*framed by this body would also be non-statutory rules and having no legal backing. The writ petition under Article 199 of the Constitution against a body, organization not constituted under the law would not be competent."*

9. *Learned counsel for the appellant was unable to persuade us to take a contrary view than the one taken by the Islamabad High Court in the impugned judgment, by the Lahore High Court in the afore-noted judgment, and by this Court in a number of judgments including Abdul Sattar Chughtai Malik. v. Pakistan Bar Council through Secretary and another (PLD 2007 Lahore 170), Muhammad Tariq Badr and another v. National Bank of Pakistan and others (2013 SCMR 314), Shafique Ahmed Khan and others v. NESCOM through Chairman, Islamabad and others (PLD 2016 SC 377) and Muhammad Zaman and others v. Government of Pakistan through Secretary, Finance Division (Regulation. Wing), Islamabad and others (2017 SCMR 571). Further, the learned counsel for the appellant has not been able to demonstrate or point to any legal, procedural or jurisdictional error, defect or flaw in the reasoning and exposition of law undertaken by the Islamabad High Court in the impugned judgment. After carefully going through the provisions of the Legal Practitioners and Bar Councils Act, 1973 as well as the Supreme Court Bar Association of Pakistan Rules, 1989, we have arrived at the same conclusions as the learned High Court and find no reason to interfere in the impugned judgment.*

10. *For the afore-noted reasons, we find no merit in this appeal. It is accordingly dismissed with no order as to costs."*

17. The aforesaid order passed by Honourable Supreme Court resolves the issue, which is also subject matter of this petition.

18. A perusal of said decision shows that the rules of Pakistan Bar Council, Sindh Bar Council are not statutory in nature, therefore, any violation of statutes, regulations or rules would not attract the Constitutional jurisdiction of this Court under Article 199 of the Constitution; that the provisions of Legal Practitioners and Bar Councils Act explicitly show that the Act provides for establishment of Bar Councils in the Provinces. It deals with all matters relating to elections of office bearers, disciplinary and other professional matters, constitution of committees, their powers and other related and incidental matters. However, it is clear that other than the Attorney General for Pakistan and Advocate Generals of the Provinces being the ex-officio, Chairman Pakistan Bar Council and Provincial Bar Council; neither Provincial nor the Federal Government exercises any administrative control over the affairs of Pakistan Bar Council or Provincial Bar Councils; that Provincial Bar Council is a statutory body which is autonomous and generates its own funds independently. The Government does not have any control over it; that the functions of the Council also inter-alia include initiating proceedings for misconduct against Advocates on its rolls and award punishment in such cases; that being so, neither the Respondent nor any of its constituents or committees can be regarded as persons

performing functions in connection with the affairs of Federation, Provinces or Local Authority within the contemplation of Article 199 of the Constitution of Islamic Republic of Pakistan. As such Respondents are not amenable to the jurisdiction of this Court in terms of Article 199 of the Constitution.

19. Furthermore, the case law relied upon by the Petitioner is distinguishable from the facts obtained in the present Petition. The Petitioner has failed to point out any provision from the Bye-laws of Sindh High Court Bar Association Hyderabad which could suggest that a losing candidate can be appointed if any vacancy occurs in the Management of the Bar. At this stage it will be beneficial to have a glance over Section 21 of the Bar Association (Recognition) Rules 2017 which provides as under:-

“In the event of absence “without leave of the “Managing Committee” from the District / Taluka for more than three months of the President, Vice President, the General Secretary, the Treasurer, the Library Secretary, the Joint Secretary or any Member of the Managing Committee, the Managing Committee shall elect a Member in his / her place who shall hold office only temporarily during such absence, the absent member on his / her return shall resume his / her office. Any permanent vacancy caused by death or resignation or under bye-law 2 in the post of any office bearer or member of the Managing Committee shall be filled by the General Body or by such bye-election shall be held and conducted in the same manner as the annual election.

20. For the aforesaid conclusion, we do not find any illegality in the office order dated 8.6.2020 issued by Chairman Appellate Committee Pakistan Bar Council (Sindh) which is well reasoned and does not call for any interference at our hand.

21. Reverting to the assertions made by the petitioners as discussed in the preceding paragraph we are not convinced that he has right to claim the post of President Sindh High Court Bar Association, Hyderabad.

22. In the light of above facts and circumstances of the case, this petition being not maintainable is hereby dismissed along with pending application(s) with no order as to costs. However the petitioner, if yet subsists grievance against the respondents, may avail his remedy in accordance with law.

23. These are the reasons of our short order dated 25.08.2020, whereby we have dismissed the instant petition.

**JUDGE**

**JUDGE**