

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P. No. D-512 of 2014

[Imran Khan and others vs. Province of Sindh and others]

Present: **Mr. Justice Arbab Ali Hakro**
 Mr. Justice Riazat Ali Sahar

Petitioner by : Wali Muhammad Khoso, Advocate

Respondents by : Mr. Muhammad Ismail Bhutto, A.A.G

Dates of Hearing : 04.3.2025

Date of Decision : 04.3.2025

ORDER

RIAZAT ALI SAHAR, J: - The Petitioners have filed this Constitutional Petition, seeking a directive for the respondents to consider their appointment as Police Constables in the Sindh Police Department and prayed before this court as under:

- a) To direct the respondents to consider the petitioners for appointment as Police Constables in accordance with law.*
- b) To direct the respondent No. 5 to probe into the matter, get the documents of all appointees verified from the concerned quarters, submit such report before this Honourable Court against the responsible officer for passing stern legal action within stipulated time.*
- c) Cost of the petition may be saddled upon respondents.*
- d) Any other relief(s) which Honourable Court deems fit, just and proper in favour of the petitioner.*

2. At the very outset, learned counsel for the petitioners contended that the petitioners had applied for the post of Police Constable and had appeared in the test/interview. However, respondent No.4, in his comments in Para No.3, denied this fact. When the learned counsel for the petitioners was confronted with how this factual controversy could be ascertained or resolved in this constitutional petition, he submitted that all the requisite documents had been filed by the petitioners before respondent No.4 and that this fact could be ascertained from those

documents. He further submitted that neither the results of the petitioners were declared in public nor were they uploaded on the website.

3. Conversely, the learned A.A.G. as well as the D.A.G. have contended that the petitioners did not appear in the measurement/physical test; therefore, they are not entitled to be appointed as Police Constables.

4. We have heard the learned counsel for the petitioners, as well as the learned A.A.G. and D.A.G., and have also perused the record.

5. Since the matter relates to employment in police department, substantiating evidence becomes essential. It is worth noting that such factual controversies require evidence and fall outside the purview of resolution under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973; therefore, the instant petition is not maintainable and liable to be dismissed. This interpretation of the scope of Constitutional Petition under Article 199 of the Constitution was clarified in the recent judgment of *Mst. Tayyeba Ambareen*¹. For the sake of convenience, Paragraph 8 of the judgment is reproduced below:

“8. The object of exercising jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution") is to foster justice, preserve rights and to right the wrong. The appraisal of evidence is primarily the function of the Trial Court and, in this case, the Family Court which has been vested with exclusive jurisdiction. In constitutional jurisdiction when the findings are based on mis-reading or non-reading of evidence, and in case the order of the lower fora is found to be arbitrary, perverse, or in violation of law or evidence, the High Court can exercise its jurisdiction as a corrective measure. If the error is so glaring and patent that it may not be acceptable, then in such an eventuality the High Court can interfere

¹ *Mst. Tayyeba Ambareen and another v. Shafqat Ali Kiyani and another* [2023 SCMR 246]

when the finding is based on insufficient evidence, misreading of evidence, non-consideration of material evidence, erroneous assumption of fact, patent errors of law, consideration of inadmissible evidence, excess or abuse of jurisdiction, arbitrary exercise of power and where an unreasonable view on evidence has been taken.”

6. Similarly, in Waqar Ahmed & Others² the Honourble Supreme Court elaborated on the scope of Article 199, stating:

“Extraordinary jurisdiction under Article 199 is used to dispense expeditious remedy in cases where illegality or impropriety of an impugned action can be established without any exhaustive inquisition or recording of evidence. If convoluted or disputed factual questions arise, the High Court cannot embark on such an inquiry.”

7. Moreover, in Abdul Rehman Khan Kanju³ it was observed:

“As a general rule, High Courts do not exercise writ jurisdiction under Article 199 of the Constitution to decide disputed factual controversies requiring evidence.”

8. The present matter pertains to employment in the police department, where the substantiation of claims through evidence is essential. The dispute regarding the petitioners' participation in the recruitment process necessitates verification of documents, cross-examination, and fact-finding—an exercise that falls beyond the scope of this Court’s constitutional jurisdiction.

9. Furthermore, under Ghulam Murtaza⁴, it has been reiterated that recruitment policies, eligibility criteria, and employment-related decisions fall within the executive domain, unless malafide intent or violation of fundamental rights is established with conclusive evidence.

²Waqar Ahmed & Others v. Federation of Pakistan (2024 SCMR 1877)

³Abdul Rehman Khan Kanju v. Election Commission of Pakistan (2024 SCMR 1902)

⁴Ghulam Murtaza v. Government of Balochistan (2025 PLC (C.S.) 47),

10. In light of the above precedents, it is apparent that the petitioners' claim involves disputed facts that cannot be adjudicated in writ jurisdiction. The petitioners have not demonstrated any manifest illegality or arbitrariness in the recruitment process warranting this Court's interference.

11. Consequently, this petition is **dismissed** as **not maintainable**, with no order as to costs.

JUDGE

JUDGE

AHSAN ABRO