

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA.

Constitutional Petition No.D- 79 of 2025.

(Habibullah Panhwar v. Federation of Pakistan & Ors)

DATE OF HEARING ORDER WITH SIGNATURE OF HON'BLE JUDGE

Present:

Mr. Justice Muhammad Saleem Jessar.
Mr. Justice Adnan ul Karim Memon.

Date of hearing and Order: 05.03.2025

Mr. Ghous Bux Tunio, Advocate holds brief for Mr. Asif Hussain Chandio, Advocate for the petitioner.

Mr. Oshaque Ali Sangi, Assistant Attorney General.

Mr. Munawar Ali Abbasi, Assistant Advocate General.

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ORDER

ADNAN UL KARIM MEMON-J.-:- The captioned petition filed by an Executive Engineer (XEN) with the Sukkur Electric Power Company (SEPCO) against several respondents, including the Provincial Government's Energy Department and the Federal Investigation Agency (FIA). The petitioner alleges harassment, abuse of power, and illegal actions by the respondents, particularly Respondent No. 4, Aqeel Ahmed Junejo. The petitioner requests this court to declare the FIA call-up notice illegal, unauthorized, and void. He seeks to have the notice issued to him be set aside. He also requests the suspension of the notice pending the court's final decision.

2. The petitioner, an Executive Engineer (XEN) with SEPCO, claims he is the target of a personal vendetta by Aqeel Ahmed Junejo, a highly influential official in the Sindh Energy Department. The petitioner asserts that Junejo, motivated by past grievances stemming from denied illegal demands while at SEPCO, is now abusing his authority to harass him and other SEPCO personnel. This harassment includes a barrage of unwarranted show-cause notices and letters of explanation, designed to damage his reputation. Junejo is also accused of providing false information to authorities to further his malicious campaign against the petitioner.

3. The core dispute revolves around streetlight billing. Following a 2019 meeting regarding unpaid streetlight bills for connections without AMR meters, a joint survey committee, including SEPCO representatives, was formed. The committee's findings, which documented direct connections with varying loads, were properly reported. The petitioner alleges that Junejo, seeking revenge, falsely accused SEPCO officials of overcharging and initiated an illegal FIA inquiry. The petitioner contends that the FIA inquiry (No. 136/2024) is unlawful. He submits that disputes concerning overcharging and metering are the sole purview of the Electrical Inspector, Government of Sindh, as mandated by the Electricity Act 1910 and NEPRA regulations. The petitioner emphasizes that NEPRA regulations require a due process involving account settlement, a hearing, and a rectification order, none of which have been followed. He also submits that the FIA call up notice under section 160 of the criminal procedure code, is illegal. He maintains that the FIA inquiry is a deliberate attempt to defame him and that he acted in full compliance with the 2019 meeting's directives, denying any involvement in overcharging or bribery. He submits that his fundamental rights are being violated and expresses fear of unlawful arrest.

4. We have heard the learned AAG and DAG on the subject issue and perused the record with their assistance.

5. While acknowledging the general principle that superior courts typically refrain from intervening during investigations, this restraint does not apply when evidence of mala fide actions is readily apparent. In such cases, the courts cannot remain passive. The Supreme Court, in *Anwar Khan vs. State* (1996 SCMR 24), established that when an investigation is conducted with mala fide intent or without jurisdiction, the High Court, exercising its constitutional authority under Article 199, is empowered to rectify the proceedings and ensure justice. This principle underscores that investigating authorities cannot operate arbitrarily. Further support for this position can be found in *Shahnaz Begum v Honourable Judge of the High Court of Sindh and Balochistan* (PLD 1971 SC 677), *Raja Rustam Ali Khan VS Muhammad Hanif* (1997 SCMR 2008), and *Ghulam Sarwar Zardari vs Piyari Ali alias Piyaro* (2010 SCMR 624).

6. Upon review of the provided record, we determine that the disputed notice potentially violates the petitioner's fundamental right to due process. Consequently, the petitioner is entitled to a fair hearing regarding the call-up

notice. The inquiry proceedings must then proceed to a logical conclusion. However, to safeguard the petitioner's liberty, it is directed that the petitioner shall not be detained during the pendency of these proceedings.

7. This petition is disposed of in the above terms.