

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No. D-5598 of 2020

(*Bijnor Cooperative Housing Society Ltd v. The Province of Sindh & Others*)

DATE:	ORDER WITH SIGNATURE(s) OF JUDGE(s)
--------------	--

1. For Orders as to Non-Prosecution of CMA No. 7881 / 2021 (Stay App)
2. For Hearing of CMA No. 28680 / 2020 (O 1 R. 10 CPC App of Intervenors)
3. For Hearing of CMA No. 8163 / 2021 (Sec 151 CPC App by Intervenors)
4. For Hearing of CMA No. 23844 / 2020 (Stay App)
5. For Hearing of Main Case

8-5-2025

Mr. Faiz Durrani, Advocate for Petitioner
Ms. Naheed A. Shahid, Advocate for Intervenors
Mr. Shaharyar Qazi, AAG, Sindh

1. **Sana Akram Minhas J:** The Petitioner, *Bijnor Cooperative Housing Society Ltd. ("Society")*, has challenged two orders issued by Respondent No.2 (Registrar Cooperative Societies Sindh), viz: (i) order dated 18.9.2020 (**Court File Pg. 261**) directing the holding of elections for the President and the entire Managing Committee; and (ii) order dated 16.10.2020 (**Court File Pg. 307**), appointing Respondent No.4 as the Enquiry Officer to conduct an inquiry, inter alia, into the workings of the Society.
2. Five (5) years have passed since the institution of this Petition, and learned Counsel for the Society admits that the same Managing Committee remains in office today as was in place when the Petition was filed. However, he refers to paragraphs 14 and 16 of the Petition, pointing out that the tenure of the Managing Committee was set to expire on 16.9.2020, and elections for the Society were scheduled for September 2020, when the official Respondents allegedly intervened unnecessarily with undue demands, prompting the filing of the present Petition. He further adds that the Society has no objection to the holding of elections, provided they are overseen by an impartial person.
3. In order to avoid further delay and the escalation of disputes, we deem it appropriate to dispose of this Petition in the following terms:
 - i) Mr. Saeed A. Memon, Advocate is appointed as Commissioner to conduct the election of the President and the entire Managing Committee of the Society under his supervision, within a period of two (2) months from the date of this order.

- ii) The Commissioner shall properly scrutinize the record in accordance with the original allotments and prepare a valid voter list of the Society's members in accordance with law within twenty (20) days thereof. Elections shall be held on the basis of this list.
 - iii) The Commissioner shall not adjudicate any dispute relating to the right, title, or claim of any member of the Society. In the event of such a dispute, the concerned member(s) shall be at liberty to approach the competent forum for redressal of their grievance.
 - iv) The Commissioner shall, at the expense of the Society, issue an election schedule for the Society and cause its publication in widely circulated newspapers, one in Urdu and the other in English, within thirty (30) days hereof, specifying the venue of the election.
 - v) The fee of the Commissioner is tentatively fixed at Rs.300,000/-, payable by the Society. However, the Commissioner may seek an additional fee by filing a reference in the instant Petition.
 - vi) The Respondents No.2 & 3 shall extend their full assistance to the Commissioner.
 - vii) Upon completion of the election of the President and the entire Managing Committee of the Society, the Respondent No.2 shall issue a Notification notifying the election results. Thereafter, a compliance report shall be submitted to this Court through MIT-II.
4. Given the foregoing directions for fresh elections, the impugned order dated 18.9.2020 (directing the conduct of elections) stands rendered infructuous.
5. With regard to the second impugned order of dated 16.10.2020, which pertains to the initiation of an inquiry, it is observed that no reasons have been assigned for such initiation. Although the Registrar is vested with *suo motu* powers under Section 55(1) of the *Sindh Cooperative Societies Act, 2020* – mirroring the repealed Section 43(1) of the *Cooperative Societies Act, 1925* – this Court has consistently held¹ (with reference to the latter provision) that the exercise of *suo motu* powers without any supporting reasons or material constitutes a colourable exercise of authority and exceeds jurisdiction. Furthermore, Section 24-A of the *General Clauses Act, 1897* mandates that any power conferred by statute to make an order or issue a direction must be exercised reasonably, fairly, justly, and in furtherance of the objectives of the enactment. In the same vein, the principles of natural justice require that a person against whom proceedings are initiated must be provided with the relevant material, to afford a meaningful opportunity to rebut the allegations.

¹ 2011 YLR 2121 (*Delhi Mercantile Cooperative Society Ltd v. Registrar Cooperative Societies*)

6. Accordingly, the impugned order dated 16.10.2020 (**Court File Pg. 307**) is hereby set aside. Should the Society be found to be in legal breach in the future, warranting action, the Registrar may proceed strictly in accordance with the provisions and underlying objectives of the *Sindh Cooperative Societies Act, 2020*.
7. The present Petition, along with pending applications, stands disposed of in the foregoing terms.

JUDGE

JUDGE