

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Const. Pett No.D-1592 of 2025

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Hearing of case

1. For orders on office objections at flag 'A'
2. For hearing of main case

09.10.2025

Mr. Abdul Baqi Jan Kakar, Advocate for petitioner
Mr. Agha Athar Hussain, Assistant Advocate General

Through the instant Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioners, being the lawful Management Committee of *Sajjad Model Higher Secondary School Khairpur a Private School*, seeks protection of its lawful rights and smooth administration of the institution. The grievance of the petitioners is that certain private persons (arrayed as private respondents) are causing unlawful interference in the affairs, management, and administration of the said school, despite having no legal authority or status, thereby obstructing the functioning of the institution and disturbing the educational environment of the students.

2. The petitioners asserts that *Sajjad Model Higher Secondary School Khairpur* is a duly registered educational institution, established and managed under the rules and regulations of the Education & Literacy Department, Government of Sindh. The petitioner-management was duly elected and recognized by the competent authority. It is contended that the private respondents have been making repeated attempts to forcibly enter the school premises, harass the staff, and interfere in administrative affairs. It is further alleged that despite several complaints lodged before the area police, no effective action was taken, resulting in continuous threats and disruption of school activities. The petitioners thus seek protection of law and police assistance to ensure peaceful functioning of the school.

3. The respondents No. 5 and 6 have filed their statements wherein they categorically stated that due protection have been provided to the school management while Mr. Ahmed Mehran Goraya filed vakalatnama on behalf of the respondents No. 9 and 10 and seeks time to file response on their behalf.

4. It is a settled principle of law that no private person is permitted to take the law into their own hands or to interfere in the lawful affairs of others. The Hon'ble Supreme Court of Pakistan, in **PLD 2007 SC 642 (Pakistan Muslim League (N) v. Federation of Pakistan)** has held that the protection of life, liberty, and property of citizens is a fundamental right guaranteed under the Constitution, and that the police is duty-bound to provide assistance in preventing unlawful interference or threats. Furthermore, in **PLD 1988 SC 416 (Miss Benazir Bhutto v. Federation of Pakistan)**, it has been observed that Article 4 of the Constitution guarantees that every person shall be treated in accordance with law, and no action detrimental to their rights shall be taken except in accordance with due process.

We may also observe that educational institutions play a vital role in shaping the future of society, and any disruption in their functioning directly affects the constitutional right of children to education. It is, therefore, the duty of the State to safeguard such institutions from unlawful interference and to ensure an environment conducive to learning and teaching. Under the circumstances, the police shall provide necessary protection to the petitioner-management, as and when required, to ensure the smooth and peaceful functioning of the institution and the safety of its staff and students.

5. Article 25-A of the Constitution of the Islamic Republic of Pakistan, 1973 provides:

"The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law."

6. It is now well-settled through a catena of judgments of the Hon'ble Supreme Court of Pakistan, in **PLD 1994 SC 693 (Miss Shehla Zia v. WAPDA)** including **PLD 2009 SC 879 (Sindh High Court Bar Association v. Federation of Pakistan)** that the enforcement of fundamental rights under the Constitution imposes a corresponding duty upon the State and all its instrumentalities to ensure that such rights are not rendered illusory. Education is not merely a statutory entitlement but a *fundamental human right* directly linked with the principles of equality, dignity, and socio-economic development. The obligation to provide free and compulsory education under Article 25-A is not limited to the public sector alone; private

educational institutions operating under State regulation are equally bound to respect and uphold this constitutional commitment.

7. The ***Sindh Right of Children to Free and Compulsory Education Act, 2013*** was also enacted in pursuance of the above constitutional command. Section 10 of the said Act provides that:-

(a) *shall provide free and compulsory education to such proportion of total strength of children admitted as mentioned thereafter;*

(b) *shall admit in class-I and subsequent classes not less than ten percent of the strength of that class to disadvantaged children;*

The competent authority may withdraw or cancel the registration of any school that fails to comply with the provisions of this Act or the rules framed thereunder. It is deeply concerning that, despite the clear statutory mandate, no effective mechanism appears to exist to verify or audit the compliance of private schools with the 10% free-education requirement. The failure of the Education Department to implement the Act in its true spirit constitutes administrative negligence and violation of constitutional obligations under Articles 9, 14, and 25-A.

8. After hearing the counsel for the petitioners and the Additional Advocate general Sindh on the point of implementation of the provisions of ***“The Sindh Right of Children to Free and Compulsory Education Act, 2013”*** we observed that:

1. *The Sindh Right of Children to Free and Compulsory Education Act, 2013 is a binding legal instrument ensuring the constitutional right of every child to receive free education.*

2. *Private educational institutions are under a statutory obligation to reserve/provide at least ten percent (10%) of seats for free education to children belonging to disadvantaged groups.*

3. *Non-compliance with the above provision amounts to violation of the law and renders such institutions liable to action, including cancellation of registration under Section 12 of the Act.*

4. *The Education Department and the Directorate of Inspection and Registration of Private Institutions, Sindh, have failed to perform their duties in conducting regular audits and inspections to ensure enforcement of the said requirement.*

9. In view of the foregoing, we direct that:

1. The Secretary, School Education and Literacy Department, Government of Sindh, is directed to ensure strict enforcement of the Sindh Right of Children to Free and Compulsory Education Act, 2013, particularly Section 10 thereof.

2. The Directorate of Inspection and Registration of Private Institutions shall within **three months** conduct a comprehensive **audit and inspection** of all registered private schools across the province of Sindh to ascertain whether they are providing free education to the requisite ten percent (10%) of enrolled students.

3. A detailed **compliance report** shall be submitted before the Additional Registrar of this Court within four months from today, indicating the schools found in violation of the law and the actions initiated against them.

4. In case any private school is found to have failed to comply with the mandatory provision, its registration shall be **suspended or cancelled**, in accordance with Section 12 of the Act.

5. The Education Department is further directed to devise and publish transparent **guidelines and monitoring mechanisms** for continuous verification of compliance with the 10% free-education requirement.

10. The Secretary, School Education and Literacy Department, Government of Sindh and Directorate of Inspection and Registration of Private Institutions shall also submit an interim compliance report on 5th day of each month. Adjourned to **10-11-2025 to be taken up at 11.00 am** when the Secretary, School Education and Literacy Department, Government of Sindh and Directorate of Inspection and Registration of Private Institutions shall be in attendance.

J U D G E

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M. Ali*