

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No.D-116 of 2020

[Akbar & Others vs The Province of Sindh & Ors.]

Before:

Justice Muhammad Saleem Jessar

Justice Nisar Ahmed Bhanbhro

For hearing of M.A No.5414/2024

For hearing of M.A No.8779/2024

Petitioners:

Akber & others: Through Mr. Safder Ali Leghari, advocate

Respondent No 8

Muhammad Ibrahim Through Mr. Aayatullah Khuwaja advocate

Province of Sindh & others: Mr. Muhammad Ismail Bhutto
Additional A.G Sindh along with
Mukhtiarkar Diplo [Liaquat Ali]

Date of hearing 20.10.2025

Date of decision 20.10.2025

ORDER

MUHAMMAD SALEEM JESSAR, J: Through listed applications [M.As No.5414 and 8779 of 2024] the petitioners seek initiation of contempt proceedings against the alleged contemnors for violation of order dated 16.03.2023 passed by this Court in the instant matter.

2. Dispute in essence in the present lis relates to the caretaker ship of the Community Center constructed in Village Muhammad Ibrahim Lund, Baloch Mohalla Warda No 2 Town Committee Diplo. It transpires from the record that vide Order dated 15.12.2022, the Deputy Commissioner Tharparkar was directed to take over the possession of Community Centre and submit report before this Court. In compliance to the said order a report dated 22.12.2022 was furnished before this Court by the Assistant Commissioner Diplo and vide a subsequent Order dated 08.02.2023 learned

Senior Civil Judge Tharparkar @ Mithi was appointed as Commissioner, who inspected the subject Community Centre and reported that the subject premises were in possession of the Assistant Commissioner Diplo and accordingly petition was disposed of vide Order dated 16.03.2023. It, however, appears that in the subsequent development the Assistant Commissioner Diplo constituted a body of Nekmards (notables of the area) to look after the affairs of the Community Centre, which annoyed the petitioners to file listed applications for contempt proceedings.

3. Learned counsel for the petitioners submits that the Community Centre was in illegal possession of the respondent No.8 Muhammad Ibrahim and now through private management the same has again been handed over to the respondent No.8 as well as alleged contemnors namely Aftab, Rajo, Ghulam Akbar, Hakim Ali, Khalil-ur-Rehman and Faisal. He argued that the private arrangement has been made to defeat the Court orders and due process of law, that the alleged contemnors have flouted the Court's order dated 16.03.2023, thus liable to be prosecuted and convicted under the contempt of court's orders.

4. Learned counsel for respondent No.8/alleged contemnor(s), submits that no contempt has been committed by the alleged contemnors and the Community Centre has been handed over to the management committee elected by the community for the general welfare of the people of the area. Learned Additional A.G also supports the arguments advanced by learned counsel for the alleged contemnor(s) and prayed for dismissal of the listed application.

5. From record, it transpired that Respondents No 3 to 8 were party to the proceedings in the instant petition, they are alleged contemnors No 1 to 5 in the instant application. Besides the contempt application has been brought against the alleged contemnors No 6 to 10 *in M.A No.5414/2024 while 6 to 11 in M.A 8779/2024* who were neither party to the proceedings nor any order was passed against them. It is well settled law that any order passed in the proceedings, to which a person is not arrayed as party, is not binding upon the said party. Therefore, no contempt proceedings can be initiated against

the alleged contemnors No 6 to 11. Accordingly listed applications to the extent of alleged contemnors 6 to 11 are dismissed being misconceived.

6. As far as the case of remaining alleged contemnors is concerned, this Court while disposing of the petition had not passed any order that the Community Centre shall be handed over to the Management Committee elected from the private persons. Under Sindh Local Government Act 2013 (SLG Act 2013) a Local Council has been established at local level and has been assigned functions to perform in the said area in terms of Section 72 of SLG Act 2013, which reads as under:

72. Functions of Council.- A Council shall, subject to rules and directions given by Government and within the limits of the funds at its disposal, undertake all or any of the functions, given in Schedule II in the case of a Corporation, a District Municipal Corporation, Municipal Committee and Town Committee, in Schedule III in the case of a District Council, and in Schedule IV in the case of a Union Council and such other functions as are entrusted to them by Government:

Provided that no Corporation shall undertake such functions as are assigned to and performed by anybody, agency or authority established by or under any law for the time being in force:

Provided further that Government may at any time require the Metropolitan Corporation to perform any function of a District Municipal Corporation subject to such conditions as Government may specify.

7. Perusal of the above provision of law reveals that under Schedule IV of the Sindh Local Government Act 2013 the compulsory functions of a Union Council have been defined by the legislation. It will be appropriate to reproduce below the Schedule IV:

SCHEDULE-IV

[FUNCTIONS OF UNION COUNCILS AND UNION COMMITTEES]

1) To act as construction agency for the following sub- sectors –

Primary, Middle and Secondary Schools

Rural Health Centres

Family Welfare Clinics

Basic Health Units

Piped Water Supply

Potable Water/Storage Tanks/Tube-wells, and Wells

Hand Pumps

Sanitation

Rural Roads

In pursuance of the above, the Union Councils shall be responsible for site selection, project preparation, land acquisition where necessary, construction and maintenance of new buildings as well as the maintenance of already completed projects.

(2) To raise local resources through –

(a) Voluntary resources; labour, land and cash contribution;

(b) Taxes; property, consumption and other sources identified by the community (except on trade);

(c) Fees and charges for the use of utility services provided by the Councils such as water supply, sanitation, etc.

(3) Procurement and distribution of equipment and materials for Health Centres, and Schools.

4) Take appropriate measures, on its own or on behalf of the District Council, for the development of rural skills, crafts and cottage industry.

(5) Monitor the implementation of development projects of line departments by regular review meetings, inspections and review of periodic progress reports and to take appropriate action within the sphere of their jurisdiction.

(6) Make recommendations about the location of various facilities to the District Council.

(7) Identify gaps in various sectors (e.g. non-availability of teachers and medicines in the schools and dispensaries) for the provision of facilities in the Union Area and to take steps within the available sources and in accordance with priorities laid down by District Council.

- (8) *Keep a watch over the actual supplies and delivery of various agricultural and service inputs within the Union Area and to report any inadequacies to the supplies Organization/District Council.*
- (9) *Widely circulate information on the projects, allocations and physical programmes to be executed by various line departments and the Union Councils within the Union Area to enlist the voluntary financial and material support to the Local Development Programmes and to stimulate better community supervision.*
- (10) *To encourage and to facilitate the formation of associations for collective use and collection of charges for services such as electric supply and water course management, co-operative tubewell development, co-operative for input supplies and output marketing, water-course management, etc.*
- (11) *Provision and maintenance of public ways and public streets.*
- (12) *Provision and maintenance of Eid Gahs, public open spaces, public gardens and public playgrounds, common meeting places and other common property.*
- (13) *Lighting of public ways, public streets and public places.*
- (14) *Plantation and preservation of trees in general, and plantation and preservation of trees on public ways, public streets and public places in particular.*
- (15) *Management and maintenance of graveyards, shamilats and cremations and burial grounds.*
- (16) *Provision and maintenance of accommodation for travellers.*
- (17) *Prevention and regulation of encroachments on public ways, public streets and public places.*
- (18) *Prevention and abatement of nuisances in public ways, public streets and public places.*
- (19) *Sanitation, conservancy, and the adoption of other measures for the cleanliness of the Union.*
- (20) *Regulation of collection, removal and disposal of manure and street sweepings.*
- (21) *Regulation of offensive and dangerous trades.*
- (22) *Regulation of the disposal of carcasses of dead animals.*
- (23) *Regulation of the slaughter of animals.*

- (24) *Regulation of the erection and re-erection of buildings in the Union.*
- (25) *Regulation of dangerous buildings and structures.*
- (26) *Provision and maintenance of wells, water pumps, tanks, ponds, and other works for the supply of water.*
- (27) *Adoption of measures for preventing the contamination of the sources of water supply for drinking.*
- (28) *Prohibition of the use of the water of wells, ponds, and other sources of water supply suspected to be dangerous to Public Health.*
- (29) *Regulation or prohibition of the watering of cattle, bathing or washing at or near wells, ponds or other sources of water reserved for drinking purposes.*
- (30) *Regulation or prohibition of the steeping of hemp jute or other plants in or near ponds or other sources of water supply.*
- (31) *Regulation or prohibition of dying or tanning of skins within residential areas.*
- (32) *Regulation or prohibition of the excavation of earth, stones or other material within residential areas.*
- (33) *Regulation or prohibition of the establishment of brick kilns, potteries and other kilns within residential areas.*
- (34) *Registration and computerization of data regarding births and deaths, marriages and divorces and the maintenance of such vital statistics as may be prescribed.*
- (35) *Holding of fairs and shows.*
- (36) *Celebration of public festivals.*
- (37) *Provision of relief measures in the event of any fire, flood, hailstorm earthquake or other natural calamity and disasters.*
- (38) *Relief for the widows and orphans and the poor, and persons in distress.*
- (39) *Promotion of public games and sports.*
- (40) *Agricultural, industrial and community development of co-operative movement, village industries, forests, livestock and fisheries.*
- (41) *Adoption of measures for increased food production.*
- (42) *Provision of First-Aid Centres.*
- (43) *Provision of libraries and reading rooms.*

(44) Co-operation with other organization engaged in activities similar to those of the Union Council.

(45) Providing protection against stray animals and animal trespass, and establishing cattle pounds; and

(46) Regulation or prohibition of the establishment of brick kilns, potteries and other kilns within the residential areas.

(47) Any other measures likely to promote the welfare, health, safety, comfort or convenience of the inhabitants of the Union or of visitors.

8. Per item No.12 of the Schedule IV every Union Council is saddled with the responsibility for provision and maintenance of a common meeting place. Community center being a common meeting place of the people of the area falls within the domain of Union Council concerned, therefore, the management of the Community Centre through the private persons is not warranted under the law, as such the decision taken by the Assistant Commissioner Diplo by appointing a group of private persons for looking after the affairs of the Community Centre is without lawful authority and stands set aside. The concerned Union Council / Town Committee shall manage and supervise the Community Center and it shall be a common meeting place for all without any discrimination.

9. Under Schedule IV *ibid* the functions of a Union Council and Union Committee have been laid down but due to the lackadaisical enforcement of laws at ground the fruits are yet to yield for general public. The Union Councils have failed to provide these basic facilities to the people. It is healthy sign that in the Union Council of the petitioners a Community Centre has been established for the purpose of common meeting of the community. This facility must be available within the local area of each Union Council and Union Committee in the province. This Court has been informed that every month Rs 1.2 million is disbursed to Union Councils and Union Committees under UZT share for disbursement of salaries and carrying out the development works as provided under Schedule IV of Section 72 of SLG Act 2013, but the funds earmarked under the budget are not being properly utilized by the Union Council/Committees. It is imperative upon the Union Councils/Committees to provide basic facilities

to the people of locality in accordance with the SLG Act 2013 and rules framed thereunder.

10. Under the circumstances all the Union Councils/Committees in Sindh Province are directed to ensure establishment of Community Centers at the headquarter of their respective jurisdiction out of the funds being provided by the Government of Sindh every month under OZT share. The Secretary to the Government of Sindh Local Government Department, Regional Director Local Government Department of Division concerned and Additional Directors Local Government Department in every District are directed to ensure that each Union Council/Committee in Sindh Province establishes its own office and a Community Centre at the headquarter of respective council out of the budget provided by the Government of Sindh every month under UZT share.

11. Let the aforesaid exercise be completed within period of six (06) months from today by preparing such plan and approving it through the Union Council/Committee concerned and compliance report be furnished to this Court through Additional Registrar.

12. Listed applications stand disposed of in the above terms.

J U D G E

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Sajjad Ali Jessar

Approved for reporting

21.10.2025

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