

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

JCM No.46 of 2025

| Date | Order with signature of Judge |
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1. FOR HEARING OF CMA NO.3615/25
2. FOR HEARING OF CMA NO.3616/25
3. FOR HEARING OF MAIN CASE

29.10.2025

M/s. Arshad M. Tayebaly/ Talha Javed/ Ammar Suria,
advocates for petitioners

Mr. Ammar Athar Saeed, advocate a/w Usman Alam and
Hamna Farooqui, advocates for respondents No.2, 3 and 4

Mr. Ahmed Ali Hussain, advocate for respondent No.5

Mr. Kehar Khan, Sp. Prosecutor for SECP

MUHAMMAD OSMAN ALI HADI J.- This instant JCM Petition was filed by the Petitioners (who are shareholders & some are also involved in the management affairs in the Company / Respondent No. 1) claiming, *inter alia*, oppression and mismanagement of the Company (i.e. Respondent No.1) by the Respondents No. 2, 3 & 4. Learned counsel for the Petitioners has submitted that the Respondent No.1 Company owns & operates successful educational institutions, which is being completely mismanaged by the Respondents No. 2, 3 & 4 (who are also shareholders and involved in the management of Respondent No. 1). Counsel submitted the said Respondents were attempting to displace the Petitioners from their lawful position. Learned counsel further averred that the Respondents were running the Company as per their own whims and desires, without ensuring proper checks and balances, contrary to the principles of good governance. Resultantly, the Petitioners were suffering due to such actions of the Respondents.

2. Learned counsel for Respondents No. 2, 3 and 4 is present and controverts the allegations of the Petitioners. He submits that the Company is being run in a proper and just manner, and that the Petitioners holding devious ulterior motives, have filed the instant Petition in a bid to unlawfully dislodge the Respondents from properly handling the affairs of the Company.

3. On 23.10.2025, this Court had put forward the suggestion of Alternative Dispute Resolution (ADR)/ Mediation to the Parties, for which the learned counsel for Respondents No. 2, 3 and 4 sought time to consult with his clients. Learned counsel for Petitioner was agreeable from the outset to ADR / Mediation.

4. Notices were issued to all shareholders of the Company, and today, in addition to the Petitioners and Respondents No. 2, 3 &4, appearance has been made by Mr. Ahmed Ali Hussain, Advocate, on behalf of Mr. Qazi Muhammad Ali & Mr. Sheheryar Rashid who are shareholders of the Company, as well as on behalf of Mr. Omair Mansoor, who in addition to being a shareholder is also a Director in the Company.

5. All Parties hereby present, have by consent, agreed to ADR/ Mediation proceedings, in an attempt to amicably resolve the conflicts which have arisen between them.

6. Therefore, by consent of the Parties, and in accordance with Article 125 of the Company's Articles of Association¹; and as per the statutory application under Order 10 Rule 1(a) and 1(b) read with Section 89-A of the Code of Civil Procedure 1908; as well as Sections 6(15), 276 and 277 of the Companies Act 2017; and whilst influenced by the *dictum* established by the Apex Court in the case of *Mughals Pakistan Pvt Ltd.*,² which, *inter alia*, held:

5. Mediation must be increasingly seen as a right of the parties within the litigation process. Access to justice includes the right to have disputes resolved in a timely and efficient manner. Mediation, as a faster and cost-effective alternative, satisfies this fundamental aspect of justice. Mediation respects the autonomy of the parties by giving them control over the process and outcome, unlike litigation, where outcomes are imposed by judges. Litigants have the right to avoid the adversarial consequences of litigation, such as financial strain, emotional distress, and reputational harm. Mediation provides a non-confrontational environment that mitigates these risks. Procedural justice emphasizes the fairness of the process, and mediation upholds this by ensuring participation, neutrality, and respect - core elements of a fair process. In contexts

¹ Article 125 provides a mediation clause between the shareholders / directors, available at page 179 of the File. The Articles of Association form a binding agreement *inter se* the shareholders of a company, and hence the reference to mediation can be invoked under the said clause / article 125. Reliance in such regard is placed on 2003 SCMR 132 (*United Liners Agencies case*)

² 2025 CLD 150

where economic inequalities limit access to legal representation, mediation ensures that the justice system remains accessible to the underprivileged. Many societies have strong traditions of community-led dispute resolution. Mediation builds on these traditions, ensuring justice remains culturally relevant. "Mediation is at the heart of access to justice. Courts must embrace it as an essential tool for efficient and humane dispute resolution."⁴ In conclusion, mediation is not merely an alternative to litigation but a complementary and necessary component of the justice system.

and the elaborations of the Lahore High Court in *Faisal Zafar v Siraj-ud-Din* (as under):³

18. It is settled by Supreme Court of Pakistan in a number of judgments holding it essential that mediation offers a voluntary and confidential alternative to traditional court proceedings for resolving disputes. In this process, disputing parties willingly engage in discussions facilitated by a neutral third party known as the mediator. Unlike court proceedings, mediation is a more informal and flexible approach, fostering open communication and creative problem-solving. The mediator's role is not to make decisions but to guide the parties in finding common ground and exploring potential solutions. One of the key advantages of mediation is its cost-effectiveness compared to court proceedings. It also tends to be a faster method of resolution, putting more control in the hands of the parties involved. The informality of mediation contributes to a quicker resolution compared to the often time-consuming nature of court proceedings. Additionally, the process preserves relationships, as parties actively engage in finding mutually agreeable solutions. The flexibility of mediation allows for a more personalized and tailored resolution to the specific needs and concerns of the parties involved.

19. Accordingly, as discussed above, a corporate dispute or petition under sections 286 and 287 of the "Act" alleging the mismanagement of members of a company may be resolved through mediation and compromise before passing any determination by the Court with the consent of the parties involved in such dispute, since the law permits it.

this matter is hereby referred to ADR through Mediation, as consented by the Parties.

7. By suggestion and consent of the Parties, Mr. Taha Alizai, Advocate and Partner of the distinguished Law Firm Orr' Dignam & Co. is appointed as the Mediator, and is requested to commence proceedings within 14 days from receipt of this Order, and to conclude the matter no later than sixty (60) days thereafter. A certified copy of this Order is to be sent to Mr. Taha Alizai through the Office, as well as through courier (by the Petitioners).

³ 2024 CLD 1

8. Counsel for Respondents No. 2, 3 & 4 submits there may be financially technical intricacies involved, and a financial professional may be required to assist the Mediator, which submission is not objected by Counsel for the Petitioners. It is therefore further added that Mr. Taha Alizai / Mediator, at his own discretion, shall be at liberty to engage the services of any financial / technical professional person, if he deems the same is necessary to assist him in resolving the matter. The costs and payments for engaging such a professional person would be in the amount, and borne by such Party to the proceedings, as may be decided by the Mediator.

9. In the event, Mr. Taha Alizai is conflicted and cannot mediate on the matter-at-hand, the same should be referred back to the Court to appoint another Mediator in *lieu* thereof.

10. Upon conclusion of the ADR/ Mediation process, the Mediator should file a Reference Report which is to be placed before this Court, for further process and orders accordingly.

11. The fee for the ADR/ Mediation shall be settled by the Mediator with the Parties, and as per mutual consent of all Parties present, shall be paid *in toto* by the Respondent No.1/ Company.

12. Lastly on 22.10.2025 and 23.10.2025, certain *status-quo* orders were passed by this Court, whereby no coercive action was to be taken by the Respondents against the Petitioners in their Board Meeting. Today, learned counsel for Respondent Nos. 2, 3 and 4 is present and submits that this order is being misused by the Petitioners, who are blocking the general day-to-day running of the Company through their deliberate misinterpretation of the said orders. Learned counsel for Petitioners has vehemently opposed this allegation, and submits that the *status-quo* order is being followed in both letter and spirit by the Petitioners. He avers that in fact it is the Respondents who are misusing the *status-quo* orders. Therefore, for purposes of clarity, the *status-quo* order between the parties passed earlier shall continue until the Mediation Proceedings are concluded, (subject to any further order[s] being passed by this Court in such regard). However, it is hereby clarified that the *status-quo* order shall

not in any manner affect the day-to-day functions and statutory compliances of the Company, which the Company is duty-bound and entitled to carry out. Even the Directors and Management of the Company remain duty bound to conclude their functions in a proper and just manner in accordance with law and propriety. Should either Party have any grievance in such regard (i.e. to any interpretation or misinterpretation of the *status-quo* order), they shall remain at liberty to file an appropriate application before this Court, for adjudication upon the same. It is hereby specified that this part of the Order (contained in this Para No. 12) pertains solely to implementation/ interpretation of the *status-quo* order, and should have no impact otherwise on the ADR/ Mediation proceedings between the Parties.

13. Let notice (through courier) of this Order be sent by the Petitioner to all the shareholders for their knowledge and participation, in case they desire to join the ADR/ Mediation proceedings.

14. **The Office is directed to send a copy of this Order to Mr. Taha Alizai at his known/registered Office Address.**

15. This matter is adjourned *sine die* and to come up on a date after the Mediator has filed a Reference Report in conclusion of the ADR/ Mediation proceedings; or until/unless any Party otherwise files an appropriate application beforehand.

I would also like to extend my appreciation to all the Counsels present, who have appeared with great professionalism and conducted themselves accordingly.

Order accordingly.

JUDGE