

THE HIGH COURT OF SINDH, KARACHI

Before:
Justice Mohammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

CP No.D-5008 of 2025

[Ashfaq Ali Panhwar vs. Zia-ul-Hassan Lanjar and others]

Petitioner : In person

Respondent No,1 : Through M/s. Ghulam Shabbir Shah, Mukesh Kumar Talreja, Irtafa-ur-Rehman, Agha Shahzaid, Advocates

Respondent No.2-5 : Mr. Mohsin Kadir Shahwani, Additional Attorney General for Pakistan, Ms. Wajiha M. Mehdi, Assistant Attorney General, Mr. Jawad Dero, Advocate General Sindh, Mr. Saifullah, Additional Advocate General Sindh, Mr. Ali Safdar Deepar, Assistant Advocate General Sindh, Mr. Ahmed Zafar Khaskheli, Assistant Advocate General Sindh on Court Notice.

Date of hearing : 29.10.2025

Date of Order : 30.10.2025

ORDER

Mohammad Karim Khan Agha, J. – In essence the petitioner has sought declaration from this Court that respondent No.1 Mr. Zia-ul-Hassan Lanjar, a sitting Minister and M.P.A is not qualified to contest the Sindh Bar Council Elections 2026-2030 under the Constitution and the Sindh Legal Practitioners and Bar Councils Act 1973.

2. Since this petition has been moved under Article 199 of the Constitution, the first issue to be addressed is its maintainability. According to learned counsel for the petitioner he is a member of the Sindh Bar Council and as such he is an aggrieved person as he has a right to challenge other members including the Respondent running to be a member of the SBC under Article 199 of the Constitution. Furthermore, he contends that according to the modified election schedule of the SBC Election 2026 to 2030 he made objections to the candidacy of Respondent No.1 on 10.10.2025 when the matter was fixed for scrutiny of Respondents

nomination papers which were declined and as such he has no alternate remedy except to approach this Court under Article 199 of the Constitution. Hence he contended that the petition was maintainable against Respondent No.1.

3. On the other hand learned Additional Attorney General and learned counsel for Respondent No.1 contended that this petition was not maintainable as the petitioner was not an aggrieved party and had not availed the alternate remedy available to him under the law i.e. by challenging Respondent No.1's nomination papers in 10.10.2025 which was the day fixed for scrutiny by the competent authority and as such his petition should be dismissed as not being maintainable. In support of their contentions they placed reliance on The Legal Practitioners and Bar Councils Act 1973 as amended from time to time, of **Mst. Noor Jehan Begum vs. Dr. Abdus Samad and others** (1987 SCMR 1577), **Ardeshir Cowasjee and 10 others vs. Karachi Building Control Authority (KMC) Karachi and 4 others** (1999 SCMR 2883), **Dr. Akthar Hassan Khan and others vs. Federation of Pakistan and others** (2012 SCMR 455) and **Balochistan through Secretary Health and others** (2017 CLC 1195). **Khalilullah Kakar and others vs. Provincial Police Officer, Balochistan and others** (2021 SCMR 1168), **Province of Punjab through Secretary Communication and Works Department, Lahore through Chief Engineer (North/Central) Punjab Highway Department Lahore Vs. Yasir Majeed Sheikh and others** (2021 SCMR 624). **Mirza Muhammad Mazakat Baig vs. Federation of Pakistan through Secretary Ministry of Law and Justice, Islamabad and another** (2020 SCMR 631), **Abdul Sattar Chughtai Malik vs. Pakistan Bar Council through Secretary and another** (PLD 2007 Lahore 170), **Abdul Sattar Chughtai Malik vs. Pakistan Bar Council through Secretary and another** (PLD 2007 Lahore 170), **Syed Iqbal Hussain Shah Gillani vs. Pakistan Bar Council through Secretary, Supreme Court Bar Building, Islamabad and others** (2021 SCMR 425), **Muhammed Ibrahim Abro V Federation of Pakistan** (PLD 2024 Sindh 119) and Order dated 11.10.2025 passed by the competent Authority being the Advocate General Sindh against objections to the Respondent No.1's nomination at the time of scrutiny.

4. Under Article 199 of the Constitution the petitioner needs to be an aggrieved party and show that no other adequate remedy is available to

him. Thus, the petitioner has to cross **both** of these hurdles before the petition can be maintainable.

5. With regard to the first hurdle the Respondent No.1 is a candidate who is contesting the election to the Sind Bar Council (SBC) from Nawabshah. The petitioner however by his own admission hails from Karachi and as such he cannot vote in the SBC election at Nawabshah and as such is not an aggrieved party for the purposes of Article 199 of the Constitution and as such this petition is not maintainable. In this respect we place reliance on the cases of **Mst. Noor Jehan Begum vs. Dr. Abdus Samad and others** (1987 SCMR 1577), **Ardeshir Cowasjee and 10 others vs. Karachi Building Control Authority (KMC) Karachi and 4 others** (1999 SCMR 2883), **Dr. Akthar Hassan Khan and others vs. Federation of Pakistan and others** (2012 SCMR 455) and **Balochistan through Secretary Health and others** (2017 CLC 1195

6. **In addition**, we note that there was a widely published election schedule for the SBC Elections which on 22.09.2025 published the rolls of Advocates District wise, nominations were to be received by 01.10.2025, on 08.10.2025 a display of the list of nominations were made and on 10.10.2025 voters in the given District had a right to object to such nominations when they were scrutinized. In this schedule it was provided that the scrutiny of proposed candidates would take place 10.10.2025 however the petitioner has failed to provide any material to show that he raised any such objection to the nomination of Respondent No.1 despite others doing so and their objections being dismissed vide Order dated 11.10.2025 (the Order) passed by the competent Authority being the Advocate General Sind. Significantly the objections raised by the objectors are similar to those made by the petitioner which were all thoroughly considered and reviewed and rejected by the Order. As such the petitioner had an alternate remedy at the time of scrutinizing Respondent No.1's nomination papers to raise objections to the same. The petitioner failed to do so and as such failed to avail this other alternate remedy available to him under the law especially as he would have had full knowledge under the Election Schedule which candidate was contesting from which district well in advance and as such his petition is also not maintainable on this score. In effect he missed the bus. In this respect reliance is placed on the cases of **Khalilullah Kakar and others vs. Provincial Police Officer, Balochistan and others** (2021 SCMR 1168), the Apex Court has held as under:

*“11. The same was the view of this Court in National Assembly Secretariat v. Manzoor Ahmed (2015 SCMR 253). The writ jurisdiction is extraordinary in its scope, it has to be exercised sparingly. The jurisdiction conferred on the High Courts under Article 199 of the Constitution is an extraordinary relief and the same has to be exercised in aid of justice and not to interfere in jurisdictions of other statutory forums. **When the law has provided an adequate remedy, constitutional jurisdiction under Article 199 of the Constitution cannot be exercised as the same has to be exercised in exceptional circumstances, which could justify invoking the said jurisdiction. It has time and again been said by this Court that tendency to bypass remedy provided under relevant statute by resorting to constitutional jurisdiction is to be discouraged so that legislative intent is not defeated. The same is meant to be exercised in extraordinary circumstances and not in run of the mill cases. Even otherwise, we have noted that the respondents had not approached the learned High Court after exhausting the remedy of filing departmental appeal. Therefore, we are compelled to observe that the very constitutional petitions were not maintainable before the learned High Court.**”* (bold added)

7. Likewise, in the case of **Province of Punjab through Secretary Communication and Works Department, Lahore through Chief Engineer (North/Central) Punjab Highway Department Lahore Vs. Yasir Majeed Sheikh and others** (2021 SCMR 624), it was held as under:

“When the law has provided an adequate remedy, constitutional jurisdiction under Article 199 of the Constitution cannot be exercised as the same has to be exercised in exceptional circumstances, which could justify invoking the said jurisdiction. It has time and again been said by this Court that propensity to bypass remedy provided under relevant statute by resorting to constitutional jurisdiction is to be discouraged so that legislative intent is not defeated. The same is meant to be exercised in extraordinary circumstances and not in run of the mill cases.”(bold added)

8. **Even otherwise**, the petitioner should have approached the Advocate General Sindh who is the returning officer for the SBC elections with any objections which he may have had before approaching this court.

9. We also note that the Pakistan Bar Counsel (PBC) has also been impleaded as a respondent. In the case of **Mirza Muhammad Mazakat Baig vs. Federation of Pakistan through Secretary Ministry of Law and Justice, Islamabad and another** (2020 SCMR 631), where the petitioner challenged the PBC’s amendment to the rules allowing for Punjab and Islamabad

Capital Territory to have a joint President of the SCBA it was held that bar councils are not amenable to the writ jurisdiction in the following terms:

“.....Further, it is clear and obvious to us that mechanism for redressal of such grievances is available under the Legal Practitioners and Bar Councils Act, 1973. There is no denial of the fact that the said mechanism and alternate remedies have not been availed by the Appellant either directly or through the good offices of the Islamabad Bar Council.

7. A bare reading of the provisions of the Legal Practitioners and Bar Councils Act shows that the Act provides for establishment of Bar Councils in the Provinces as well as the Islamabad Capital Territory. It deals with all matters relating to elections of office bearers, disciplinary and other professional matters, constitution of committees, their powers and other related and incidental matters. However, it is clear that other than the Attorney General for Pakistan being the ex-officio, Chairman Pakistan Bar Council and Advocates Generals of the Provinces and Islamabad Capital Territory being ex-officio, Chairman of the Provincial Bar Councils and Islamabad Capital Territory neither the Provincial nor the Federal Government exercise any administrative control over the affairs of the Pakistan Bar Council or the Provincial Bar Councils. Pakistan Bar Council is a statutory body which is autonomous and generates its own funds independently. The Government does not have any control over it. Likewise, the Islamabad Bar Council acts as a regulator for affairs of the Advocates in Islamabad Capital Territory, admits Advocates to practice before the said High Court and maintains rolls of such Advocates. The functions of the Council also inter-alia include initiating proceedings for misconduct against Advocates on its rolls and award punishment in such cases. That being so, neither the Respondent nor any of its constituents or committees can be regarded as persons performing functions in connection with the affairs of the Federation, Provinces or Local Authority within the contemplation of the Article 199 of the Constitution of Islamic Republic of Pakistan. As such we are in no manner of doubt that Respondent No.2 is not amenable to the jurisdiction of the High Court in terms of Article 199 of the Constitution.”(bold added)

10. Likewise in the case **Abdul Sattar Chughtai Malik vs. Pakistan Bar Council through Secretary and another** (PLD 2007 Lahore 170), it was inter-alia held as under:

“14. The Supreme Court Bar Association is a Body, the Organization of lawyers, who are entitled to practice in the Supreme Court of Pakistan it has not been constituted under any Act of the Parliament. It is a non-statutory body, therefore, conditions or rules framed by this body would also be non-statutory rules and having no legal backing. The writ petition under Article 199 of the Constitution against a body,

organization not constituted under the law would not be competent.” (bold added)

11. In the case of **Syed Iqbal Hussain Shah Gillani vs. Pakistan Bar Council through Secretary, Supreme Court Bar Building, Islamabad and others** (2021 SCMR 425), where certain acts of the PBC were challenged through Article 199 the challenge to such acts was held to be not maintainable in the following terms;

*“7. Pakistan Bar Council is a body established under an Act of Parliament namely "The Legal Practitioners and Bar Councils Act, 1973" ("Act of 1973"), whereas, the SCBAP is an association of Supreme Court Lawyers, working under the control of the Pakistan Bar Council. The Act of 1973 provides for the establishment of the Bar Council as well as matters relating to elections, disciplinary proceedings, constitution formation and powers of the committees and all other relevant matters. A bare reading of the 1973 Act reveals that other than the Attorney General for Pakistan being the ex-officio Chairman Pakistan Bar Council, nothing in the Act suggests any administrative control being exercised by the Federal or Provincial Government over the affairs of the PBC. **The PBC is an entirely autonomous body which has independent elections and generates its own funding without any Government control. Thus, the State does not have any financial or other interests in the affairs of the PBC, nor does it perform any function in connection with the affairs of the Federation, a Province or a local authority.***

*8. It is settled law that a constitutional petition is only maintainable if the association/body performs public functions in connection with the affairs of the Federation, Provinces or Local Authority, as envisaged under Article 199 of the Constitution (Pakistan Olympic Association v. Nadeem Aftab Sindhu 2019 SCMR 221). **However, a bare perusal of the 1973 Act reveals that neither the Provincial nor the Federal Government exercise any administrative, financial or other control over the affairs of the Pakistan Bar Council. Thus, neither the Pakistan Bar Council nor any of its committees can be regarded as persons performing functions in connection with the affairs of the Federation, Provinces or Local Authority within the contemplation of Article 199 of the Constitution of Pakistan. Accordingly, Respondents Nos.1 and 2 are not amenable to writ jurisdiction of High Court.***

*9. With regard to the argument that the SCBAP is a statutory body and its 1989 Rules are statutory in nature, hence they should be enforced through constitutional petition, we find the argument to be misconceived as the preconditions for conferring and exercising jurisdiction under Article 199 of the Constitution and the test to determine if a person is performing a sovereign function are not met/ satisfied in the present case. This argument is therefore repelled. This very question was addressed by this Court in **Mirza Muhammad Nazakat Baig v. Federation of Pakistan through Secretary Ministry of Law and Justice,***

Islamabad and another (2020 SCMR 631), wherein it was categorically held that the SCBAP is a non-statutory body, therefore, conditions or rules framed by this body would also be non-statutory rules and having no statutory backing. Accordingly, any violation of the SCBAP Rules, 1989 is not amenable to writ jurisdiction of the High Court under Article 199 of the Constitution.

10. It must be noted that when the learned Counsel for the Petitioner presented his arguments before this Court, it appeared that learned counsel was not aware of the Order of this Court dated 28.01.2020 (2020 SCMR 631) wherein it was categorically held that any violation of the SCBAP Rules, 1989 is not amenable to writ jurisdiction of the High Court. The argument that the Petitioner was unaware and should be given the benefit of ignorance of law in without substance and has not impressed us. The Petitioner should have been diligent about pursuing a remedy against the Order of the Executive Committee Pakistan Bar Council, he should have adopted the right course at the right forum rather than filing a constitutional petition which was non-maintainable from the outset in light of settled law.

11. Even otherwise, adequate and efficacious remedies were available to the Petitioner. There is no denial of the fact that the available alternate remedies were not availed by the Petitioner. Hence, we are not convinced of the argument that the refusal of the High Court to exercise its jurisdiction under Article 199 on ground of non-maintainability of the constitutional petition rendered the Petitioner remediless.”(bold added)

12. The above authorities were recently followed by this court in an unreported order dated 18.09.2025 **Zulfiqar Ali Channa vs. P.O Sindh and others** (C.P.No.D-1605 of 2025), where the election fee for the Sind Bar Council was challenged on account of the fee being raised by the SBC was too high in the following terms;

“3. At the very outset, the petitioner was confronted with the question of maintainability of the instant writ petition, in view of the fact that both this Court as well as the Hon’ble Supreme Court of Pakistan have consistently held that a petition under Article 199 of the Constitution is not maintainable against the Bar Councils or Bar Associations. The petitioner, however, could not satisfactorily respond to the query of this Court and merely submitted that the fee fixed by the respondents is exorbitant and discriminatory when compared with the nomination fee prescribed in other provinces of Pakistan.

4. Heard the petitioner in person and perused the material available on record. The grievance of the petitioner, as noted hereinabove, relates to the fixation of nomination fee for contesting the forthcoming Sindh Bar Council Election for the term 2026–2030. The Hon’ble Supreme Court of Pakistan in the

cases of Mirza Muhammad Nazakat Baig v. Federation of Pakistan through Ministry Law and Justice, Islamabad (2020 SCMR 631) and Sayed Iqbal Hussain Shah Gillani v. Pakistan Bar Council through Secretary Supreme Court Bar Building, Islamabad (2021 SCMR 425), has consistently held that a petition under Article 199 of the Constitution is not maintainable against a Bar Council or a Bar Association. In the case of the Sayed Iqbal Hussain Shah Gillani (supra), the Hon'ble Supreme Court has been pleased to hold as under:

“14. In addition, it must be noted that it is settled law that fundamental rights are by and large (very exceptional circumstances apart) are enforceable against the State and not against private individuals. The Petitioner however seeks relief against the Executive Committee of Pakistan Bar Council, which is an autonomous private body and not a State institution. Therefore, an argument regarding the enforceability of fundamental rights against such a body is flawed at the outset. Accordingly, we hold that a constitutional petition against Pakistan Bar Council or its Executive Committee is not maintainable under Article 199(1)(c) of the Constitution”.

5. In view of the above facts and circumstances, the instant petition is not maintainable and is accordingly dismissed in limine along with listed application(s). Let copy of this order be communicated to the respondents for information.”(bold added)

13. With regard to the other issues raised by the petitioner we find that these have been dealt with in Order dated 11.10.2025 (the Order) passed by the competent Authority being the Advocate General referred to above in this order which having reviewed, we find no reason to interfere with.

14. Thus, for the reasons mentioned above, without going into the merits of the case, we dismiss this petition as being not maintainable under Article 199 of the Constitution.

HEAD OF CONST. BENCHES

JUDGE