

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No. D-1976 of 2024
(Majlis-Tib-Wa Adab Pakistan V. Secretary Auqaf Department)

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

1. For orders on MII-II report dated 10.08.2024 and 15.03.2025.
2. For hearing of CMA No.8954/2024.
3. For hearing of Main Case.

12.02.2026

Mr. Lala Asad Mangi, Advocate for the Petitioner.
Mr. Azain Nadeem Memon, Advocate for Respondent Nos.7 to 11.
Mr. Abdul Jalil Zubedi, A.A.G., Sindh.
Mr. Mukhtiar Ali Abro, Chief Administrator Auqaf.

Adnan-ul-Karim Memon, J. – Petitioner Majlis-Tib-Wa Adab Pakistan has filed this Constitution Petition under Article 199 of the Islamic Republic of Pakistan 1973 seeking following relief:

- a) It is therefore, respectfully prayed that this Hon'ble court may graciously be pleased to pass an order issuing the writ directing to the respondents No. 01 to 04 for protecting the processional rights in respect of the ST Plots and the writ may be issued against private respondents No.06 to 08 not to interfere in the smooth management of the petitioner in respect of the ST-Plots mentioned Supra.
 - b) Any other relief, relives which this Hon'ble Court deems fit and proper.
2. The petitioner, General Secretary of Majlis-e-Tibb-o-Adab, claims that various plots were allotted to him for Tib, pharmacy, liver research, and establishment of educational and recreational facilities. He apprehends that the authorities intend to demolish or hand over the property to an NGO, depriving him of rights accrued through lawful orders.
3. The matter is claiming to be pertaining to public importance regarding Auqaf and Zakat properties. Earlier, this Court directed the Auqaf and Zakat Departments to submit complete records of properties, income, utilization, and ten years' Zakat disbursement details, emphasizing transparency and warning of contempt for non-compliance.

4. The learned A.A.G. submitted that the Secretary concerned had no authority to allot the plot in 1998 and that it is an amenity plot intended for a Government school; hence, the petitioner has no lawful right to occupy it.

5. In view of the submissions and material placed on record, it is evident that the petitioner's claim is founded upon an alleged allotment order issued in 1998 by the Secretary concerned. However, when the very competence of the authority to issue such allotment is seriously disputed, the doctrine of *coram non judice* squarely applies. It is a settled principle of law that any order passed by an authority lacking jurisdiction is void ab initio and confers no enforceable right. It is well settled that an act done without lawful authority is a nullity in the eye of law and does not create vested rights.

6. Furthermore, if the subject property is an amenity plot reserved for public purposes, including establishment of a Government school, the same cannot be diverted for private use. The superior courts have consistently held that amenity plots are held in trust for the public at large and cannot be alienated except strictly in accordance with law. It is emphasized that public property, particularly amenity land, cannot be converted or allotted in violation of statutory provisions, and any such act is void.

7. The petitioner has also attempted to invoke the element of public importance concerning Auqaf and Zakat properties; however, such general directions issued by this Court regarding transparency and record production do not, ipso facto, validate an otherwise unauthorized allotment. No vested or indefeasible right can accrue on the basis of an order passed by concerned secretary without lawful competence, nor can equitable considerations override express statutory mandates. It is well settled that there can be no estoppel against statute.

8. Accordingly, as the petitioner has failed to establish a lawful, subsisting right in the property, and the alleged allotment appears prima facie without jurisdiction and contrary to the public purpose attached to the land, the petition is devoid of merit.

9. Consequently, the petition along with pending application(s) stands dismissed.

JUDGE

JUDGE

Ayaz Gul