

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-6603 of 2021
(Muhammad Tariq Mansoor Advocate versus Province of Sindh & others)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order: 10.2.2026

Mr. Muhammad Tariq Mansoor, Advocate/petitioner, present in person alongwith Malik A. Nawaz Awan advocate

Mr. Abdul Jalil Zubedi, Assistant AG

M/s Amanullah, Dhani Bux Lashari, Humaira Jatoi, dvocates for the SBCA alongwith Mr. Muzamil Halepoto, Director General SBCA

Ms. Nazia Siddiqui advocate for KDA

M/s Liaquat Ali Abro and Nadeem Ahmed Qureshi, Law Officers, Law Department, Government of Sindh

Mr. Khurram Ghayasuddin advocate for Karachi Master Plan Authority

ORDER

Adnan-ul-Karim Memon, J. The petitioner has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer (s): -

- a. *To direct the respondent Nos. 1 to 3 for immediately framing and thereby notifying in the “Public Gazette” of the mandatory “Sindh Building Planning, Construction, Control, Demolition and Disposal Rules”, i.e. Hereinafter referred to as the rules under section 21 of the SBCO, 1979, in accordance with the Parent Act within a period of 60 days thereof.*
- b. *To direct the respondent Nos.1 to 6 for the enforcement of various orders of Apex Court in lieu of unlawful Constructions, unlawful change of land use, commercialization to impose a complete ban on commercialization and change of land use in all Residential Neighborhoods all across Karachi Sindh without prior and on ground respective area/District Town Planning and Infrastructure/Civil Amenities Development as mandated and in accordance with the very intent and spirit of relevant section under section 7-B to 7-D of SBCO, 1979 accordingly.*
- c. *To direct the respondent Nos.1 to 4 to bring the provisions of SBCO, 1979 (as existing law), and the proposed rules and to harmonize the KBTPR-2002, the Building Bylaws, Building Code, Regulations, Policies, Notifications, etc. in accordance with teachings and injunctions of Holy Quran and Sunnah read with Article 227(1) of Constitution of Pakistan 1973 to the extent of enforcement of rights of neighborhood in Islam.*

2. The petitioner, appearing in person, has invoked the constitutional jurisdiction of this Court seeks directions to Respondent Nos. 1 to 6 to frame and notify the Sindh Building Planning, Construction, Control, Demolition and Disposal Rules under Section 21 of the Sindh Building Control Ordinance, 1979, (SBCO, 1979) to strictly enforce Sections 7-B to 7-D thereof to curb unlawful constructions, unauthorized commercialization, and illegal change of land use in residential areas, and to harmonize the SBCO, 1979, and all allied laws, rules, by-laws, and policies, including the Karachi Building & Town Planning Regulations, 2002 (KB&TPR-2002), in consonance with Article 227(1) of the Constitution of the Islamic Republic of Pakistan, 1973.

3. The petitioner as a counsel submits that the parent law (SBCO, 1979) does not authorize conversion of residential land into commercial or industrial use, especially without comprehensive town planning, master plans, and corresponding upgradation of civic amenities and infrastructure. It is argued that the impugned regulations and subsequent notifications have been framed in excess of delegated authority, without first framing the Rules mandated by Section 21 of the Ordinance, thereby defeating the very scheme, object, and intent of the law. The petitioner further submits that such unchecked commercialization has severely infringed the fundamental right to life, dignity, privacy, and peaceful enjoyment of residential neighborhoods, as guaranteed under Articles 4, 9, 10-A, and 14 of the Constitution, and has directly contributed to urban chaos, environmental degradation, traffic congestion, and the collapse of civic services. Reliance has been placed upon various judgments and orders of the Supreme Court of Pakistan, including orders passed in Civil Petition No. 815-K of 2016, wherein a ban was imposed on unlawful commercialization and change of land use. It is contended that these directions are binding under Article 189 of the Constitution and continue to operate as judgments *in rem*. The petitioner has also referred to Section 7-B of the law, emphasizing that master planning for all districts is a statutory obligation, and that no change of land use can be lawfully undertaken without approved master plans and government sanction. It is further submitted that committees constituted by SBCA through notifications for reviewing past conversions or approving plans cannot override the parent statute or the binding judgments of the Supreme Court, nor can they legitimize actions taken without lawful authority. In support of his contention, Petitioner has relied upon the cases of SUO Moto Case No. 13 of 2009. In the matter of, Farrukh Raza Sheikh v The Appellate Tribunal Inland Revenue and others **2022 SCMR 1787**, Muhammad Amin Muhammad Bashir Limited v Government of Pakistan & others **2015 SCMR 630**, Suo Moto Case No.11 of 2011 In the matter of, Khawaja Ahmad Hassan v Government of Punjab & others **2005 SCMR 186**. He prayed to allow this petition.

4. Learned A.A.G., assisted by the Director General, Sindh Building Control Authority, submits that in compliance with the order dated 22.01.2026 passed by this Court, a meeting regarding the subject matter was convened on 06.02.2026 under the Chairmanship of the worthy Chief Secretary, Sindh, which was attended by all relevant stakeholders, including the Director General, SBCA. However, during the said meeting, specific directions were issued to the Director General, SBCA to initiate the process for framing of the requisite rules as required under section 21 of the SBCA Ordinance 1979 and to complete the same at the earliest possible time. DG SBCA emphasized that the process has already been initiated, and some reasonable time is required to finalize the same in accordance with the law. In view of the foregoing developments, he prays that a reasonable time be granted to enable completion of the aforesaid rule-making process.

5. At this stage, the petitioner submits that the Sindh Building Control Authority (SBCA) is presently operating under two parallel and discriminatory sets of Building Regulations framed under the Sindh Building Control Ordinance, 1979. One set, namely the Karachi Building and Town Planning Regulations, 2002 (KBTPR-2002), applies exclusively to Karachi Division, while the other, i.e., the Regional Building and Town Planning Regulations, 2018, applies to the remaining twenty-five districts of Sindh. Such parallel regimes lack lawful uniformity and have resulted in arbitrary governance. It is further submitted that the respondents have failed to frame and notify the requisite rules under Section 78 of the SBCO, 1979, for effective implementation of the Karachi Strategic Development Plan-2020 (KSDP-2020), despite the same having been duly approved by the competent authority and gazette-notified on 10.10.2018. The said plan, formulated under Vision-2030 and approved by the City District Council Karachi, remains unimplemented to date, in violation of statutory obligations and constitutional guarantees, adversely affecting the fundamental rights of the residents of Karachi. He also submits that clauses 1.7 and 1.8 of the notified KSDP-2020 make it mandatory and legally binding upon all federal, provincial, and local authorities in Karachi to strictly adhere to the said plan. However, all building approvals, construction permits, and changes in land use in Karachi are being carried out under the impugned KBTPR-2002 in clear deviation from the parent statute and the KSDP-2020, whereas a separate regulatory regime is being applied in the remaining districts of Sindh. It is further submitted that the respondents have also failed to comply with binding judgments of the Supreme Court, including **PLD 2022 SC 439**, **2022 SCMR 528**, and **2020 SCMR 111**, which are directly relevant and applicable to the present matter. He finally submits that the continued non-implementation of the KSDP-2020 and the acts of omission and commission on the part of the respondents amount to abuse of authority and maladministration, attracting serious legal consequences.

6. During hearing, we have been informed that the principal objective of KSDP-2020 is to establish an integrated planning process, designating Local Governemnt as the apex planning institution while ensuring effective coordination with major land-owning and development agencies operating under federal and provincial laws, which is the first officially approved development plan for Karachi to attain legal status under Section 40 of the Sindh Local Government Ordinance, 2001 (SLGO 2001), vide notification dated dated 05 October, 2016, distinguishing it from the previous five master plans prepared for the planned development of Karachi.

7. Learned AAG with DG SBCA replied to the proposition so putforward by the petitioner and stated this aspect of the case, including the judgment rendered by the Supreme Court, shall also be taken care of while framing the requisite rules, subject to the policy decision of the Government of Sindh. The request seems to be reasonable and acceded to.

8. We have heard the petitioner, who appeared in person, as well as the learned A.A.G., assisted by the Director General, Sindh Building Control Authority, and have carefully examined the record, the statutory framework governing the field, and the relevant judgments of the Supreme Court of Pakistan relied upon by the petitioner.

9. It is not in dispute that the Sindh Building Control Ordinance, 1979 is the parent statute governing building planning, construction, control, demolition, and disposal in the Province of Sindh, and that Section 21 thereof mandates the framing and notification of rules to carry out the purposes of the Ordinance. It is equally undisputed that, despite the passage of considerable time, the requisite rules contemplated under the Ordinance have not yet been finally framed and notified in the Official Gazette.

10. It is a settled principle of law that where a statute confers power coupled with a duty, the exercise of such power becomes obligatory, and prolonged inaction defeats the very object and scheme of the law. Subordinate legislation, including rules and regulations, must strictly conform to the parent statute and cannot be framed, applied, or enforced in a manner that is inconsistent with the express provisions, intent, or policy of the enabling law.

11. The petitioner's grievance regarding unchecked commercialization, unauthorized change of land use, and unlawful constructions in residential areas raises issues of public importance, having a direct nexus with the fundamental rights guaranteed under Articles 4, 9, 10-A, and 14 of the Constitution. The directions issued by the Supreme Court in this regard, including those relating to

unlawful commercialization and change of land use, are binding under Article 189 of the Constitution and are required to be implemented in letter and spirit by all executive and statutory authorities.

12. We also take note of the fact that the Karachi Strategic Development Plan-2020 (KSDP-2020) has attained legal status under Section 40 of the Sindh Local Government Ordinance, 2001, having been duly approved and gazette-notified. The Plan envisages an integrated and coordinated planning regime for Karachi and is binding upon all federal, provincial, and local authorities operating within the city. Non-implementation of an approved and notified development plan, without lawful justification, undermines statutory governance and results in arbitrariness.

13. At the same time, it has been brought to our notice that pursuant to the order of this Court, a high-level meeting was convened under the Chairmanship of the Chief Secretary, Sindh, wherein clear directions were issued to the Director General, SBCA to initiate and expedite the process of framing the requisite rules under the Ordinance. The respondents have stated, on record, that the process has already commenced and that reasonable time is required to complete the same in accordance with law and policy.

14. In view of the above, and without expressing any final opinion on the merits of the proposed rules or policy decisions to be taken by the Government of Sindh, we are of the considered view that the statutory obligation to frame and notify the rules cannot be deferred indefinitely, and a time-bound direction is warranted to ensure compliance with the mandate of law, the binding judgments of the Supreme Court, and the constitutional rights of the citizens.

15. Accordingly, this petition is disposed of along with all pending application(s) with the following directions:

i. Respondent Nos. 1 to 3 shall finalize, frame, and notify the Sindh Building Planning, Construction, Control, Demolition and Disposal Rules, as contemplated under Section 21 of the Sindh Building Control Ordinance, 1979, in the Official Gazette within a period of ninety (90) days from the date of this order.

ii. While framing the aforesaid rules, the respondents shall ensure that the same are strictly in consonance with the parent statute, the binding judgments and directions of the Supreme Court of Pakistan, including those relating to unlawful commercialization and change of land use, and the objectives and mandatory provisions of the KSDP-2020, to the extent applicable.

iii. The respondents shall also examine and address, in accordance with law, the issue of uniformity, harmonization, and consistency among the existing regulations, by-laws, policies, and notifications framed under the Ordinance, and the Regional

Building Regulations, so as to avoid arbitrariness and discriminatory application of the law.

iv. In the intervening period, neither SBCA nor any other authority shall exercise any powers in deviation of the Karachi Strategic Development Plan, as well as in terms of the notification dated 05.10.2016, until the requisite rules are duly framed and notified in conformity therewith and in accordance with the binding judgments of the Supreme Court of Pakistan.

16. With the above observations and directions, the petition stands disposed of.

No order as to costs.

A copy of this order shall be communicated to all concerned for compliance forthwith.

JUDGE

JUDGE