

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

MR. JUSTICE ADNAN-UL-KARIM MEMON, J.
MR. JUSTICE ZULFIQAR ALI SANGI, J.

C.P.No.D-4654 of 2025

(M. Tariq Mansoor Advocate in person versus Province of Sindh and others)

C.P.No.D-4189 of 2025

(M. Tariq Mansoor Advocate in person versus Province of Sindh and others)

C.P.No.D-2191 of 2025

(M. Tariq Mansoor Advocate in person versus Province of Sindh and others)

C.P.No.D-4120 of 2024

(M. Tariq Mansoor Advocate in person versus Province of Sindh and others)

Date of hearing : 12.02.2026

Mr. Tariq Mansoor, Advocate/Petitioner, in person in all petitions.

Mr. Talha Abbasi, Advocate for Respondent No.4.

Mr. Ali Asadullah Bhullo, Advocate for Respondent No.4.

Mr. Abdul Jalil Zubaidi, AAG Sindh.

Mr. Dhani Bux Lashri and Ms. Humair Jatoi, Advocates for SBCA.

O R D E R

ZULFIQAR ALI SANGI, J: The Petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, by seeking issuance of a writ of quo warranto, calling upon Private Respondents to demonstrate the lawful authority under which they hold the office of Director General, Sindh Building Control Authority (SBCA). The controversy, as projected, raises a question of public importance touching upon the principles of good governance in a statutory regulatory body whose statutory functions bear directly upon public safety, structural integrity of buildings, urban planning, and enforcement of the fundamental rights of the residents of Karachi and the Province of Sindh. The impugned appointment is alleged to be violative of Articles 2A, 3, 4, 5(2), 9, 14, 18, 25, 37, and 38 of the Constitution. It has been brought to our notice that the private respondents in C.P. No. D-4120 of 2024, C.P No. D-2191 of 2025 and

C.P. No. D-4189 of 2025 are no longer holding the offices in question; consequently, the petitions, to the said extent, have become infructuous. Accordingly, only C.P. No. D-4654 of 2025 survives for adjudication on merits. It is further observed that the controversy involved in all the connected petitions is identical in nature, pertaining to the appointment of the Director General, SBCA.

2. It is the case of the Petitioner that Respondent No.4 was appointed as Director General, SBCA (BS-20), vide Notification dated 21.09.2025 bearing Ref. No. SOI(SGA&CD)-3/03/2017, issued by Respondent No.1. The said appointment is assailed as being ultra vires the Sindh Building Control Authority (Recruitment) Regulations, 2016, particularly Regulations 3 and 4 read with Appendix-A (Entry No.1), and in contravention of Section 21-A of the Sindh Building Control Ordinance, 1979. It is further contended that the appointment offends the mandatory provisions of the Pakistan Engineering Council Act, 1976 (Act V of 1976), including Sections 27 and 27(5A), as well as the Pakistan Council of Architects and Town Planners Ordinance, 1983, including Sections 2 and 28(4), framed under the Federal Legislative List (Fourth Schedule) to the Constitution. Reliance is placed upon the judgment of the Honourable Supreme Court of Pakistan dated 03.10.2018 passed in Constitution Petition No.78-K of 2015 (Maula Bux Shaikh v. Chief Minister Sindh & Others), wherein it was authoritatively held that no person may undertake or supervise professional engineering work unless duly qualified and registered under the Pakistan Engineering Council Act, 1976, and that such pronouncement is binding upon all authorities in terms of Articles 189 and 190 of the Constitution. The Petitioner further maintains that the office of Director General, SBCA, is intrinsically technical in character and, under the Recruitment Regulations, 2016, mandates prescribed professional qualifications along with registration with the Pakistan Engineering Council or the Pakistan Council of Architects and Town Planners. It is alleged that Respondent No.4, being an officer of the Pakistan Administrative Service (BS-20), lacks the requisite technical qualifications, professional expertise, and statutory registration, thereby rendering his appointment unlawful, arbitrary, and coram non judice. It is submitted that SBCA, constituted under the Sindh Building Control Ordinance, 1979, exercises powers relating to approval of building plans, scrutiny of structural designs, demolition of unsafe structures, regulation of town planning, and enforcement against unauthorized

constructions—functions that bear a direct nexus with the right to life under Article 9 of the Constitution, as expansively interpreted in PLD 1994 SC 693 (Shehla Zia v. WAPDA) and PLD 1988 SC 416 (Benazir Bhutto v. Federation of Pakistan). It is further asserted that appointments to public office must strictly conform to statutory prescriptions, as held by the Honourable Supreme Court in 2014 SCMR 949, and that any appointment made in violation of mandatory eligibility criteria is liable to be declared void ab initio through issuance of a writ of quo warranto. The Petitioner, asserting locus standi in the larger public interest and in his capacity as an Advocate of the High Court, contends that no other efficacious remedy is available and seeks declaratory and consequential reliefs, including annulment of the impugned notification and directions for future compliance with statutory requirements.

3. Conversely, learned counsel for Respondents No.3 and 4, assisted by the learned Additional Advocate General, Sindh, have raised preliminary objections regarding maintainability. It is contended that the petition is not maintainable in law or on facts; that the Petitioner lacks the requisite locus standi and legal character to maintain proceedings under Article 199; that the Petitioner has suppressed material facts and has not approached this Court with clean hands; and that no violation of any statutory provision or fundamental right has been established in respect of the appointment dated 21.09.2025. It is further submitted that the office of Director General, SBCA, as presently structured under Section 4 of the Sindh Building Control Ordinance, 1979, is an administrative post within the notified cadre of the Government of Sindh. The post of Director General (Technical), BS-20, referred to in the Recruitment Regulations, 2016, has neither been separately sanctioned nor operationalized, and thus the Petitioner has misconceived the distinction between the administrative office of Director General, SBCA, and the proposed technical post contemplated under the Regulations. It is asserted that the Government of Sindh, being competent under the Ordinance and the applicable cadre rules, is duly empowered to appoint an officer from the Provincial or Federal Services to the office of Director General, SBCA; hence, the petition is liable to dismissal with costs.

4. We have heard learned counsel for the parties at considerable length and have examined the available record with their assistance.

5. A writ of quo warranto is a constitutional remedy designed to prevent unlawful usurpation of public office and to ensure that appointments to public offices are made strictly in accordance with law. It enables judicial scrutiny of the authority under which a person holds a public office and serves as a safeguard against arbitrary or unauthorized executive action. The jurisdiction is limited to examining whether (i) the office in question is a public office created by law; (ii) the incumbent holds the office under lawful authority; and (iii) the appointment contravenes any statutory provision prescribing eligibility or qualifications. In such proceedings, strict rules of locus standi are relaxed, and any citizen may question the authority under which a public office is held, particularly where statutory violation is alleged. The Honourable Supreme Court in [2014 SCMR 949] case of Syed Mubashir Raza Jaffri and others v. Employees Old-Age Benefits Institutions (EOBI) through President of Board, Board of Trustees and others has unequivocally held that appointments to public offices must strictly conform to statutory requirements and are amenable to judicial review where such requirements are breached. In view of the nature of the challenge, the petition is maintainable.

6. Section 4 of the Sindh Building Control Ordinance, 1979 provides for the constitution of the Authority and empowers the Government to make appointments thereto. Section 21-A authorizes the framing of recruitment regulations, pursuant to which the SBCA (Recruitment) Regulations, 2016 were promulgated. Appendix-A of the said Regulations reflects, *inter alia*, the post of Director General (Technical), BS-20, prescribing qualifications and the method of appointment. The statutory functions of SBCA include approval of structural drawings, scrutiny of engineering designs, regulation of town planning, and identification and demolition of dangerous buildings—functions which are technical in nature and directly impinge upon public safety and the right to life under Article 9 of the Constitution, as elucidated in Shehla Zia's case. Nonetheless, the determinative question remains whether the legal framework mandatorily requires the incumbent of the office presently held to possess technical qualifications and statutory registration.

7. The Respondents maintain that the existing post of Director General, SBCA, is administrative in character and distinct from the post of Director General (Technical), BS-20, introduced in the 2016

Regulations, which, according to them, has not been separately sanctioned or operationalized. The record indicates that prior to the 2016 Regulations, the office of Chief Controller of Buildings (BS-20) was redesignated as Director General, SBCA. Although the 2016 Regulations contemplate certain technical posts, no material has been produced to demonstrate that the administrative post was abolished or that the impugned appointment was made specifically against the sanctioned post of Director General (Technical), BS-20. In the absence of such evidence, the presumption favours continuity of the administrative office under Section 4 of the Ordinance.

8. The scope of judicial review in quo warranto proceedings does not extend to substituting the Court's wisdom for that of the Executive. It is confined to examining whether the appointment is contrary to express statutory provisions or whether the incumbent lacks a qualification expressly mandated by law. Where the statute confers discretion upon the Government and no explicit disqualification is established, judicial interference is unwarranted. From the material placed on record, it emerges that the Government is statutorily empowered under Section 4 of the Sindh Building Control Ordinance, 1979 to appoint the Director General, SBCA. The Petitioner has not conclusively demonstrated that the impugned notification appoints Respondent No.4 against the specific post of Director General (Technical), BS-20, governed by Appendix-A of the 2016 Regulations. The mere existence of a contemplated technical post in the Regulations, absent proof of its sanction and operationalization, does not ipso facto invalidate the appointment to the administrative post. While merit-based and technically qualified leadership may be desirable in the larger public interest, the Court cannot annul an appointment in the absence of a clear and demonstrable statutory violation.

9. In view of the foregoing, we are of the considered opinion that the Petitioner has failed to establish that Respondent No.4 is ineligible under the governing statutory framework to hold the office presently occupied. Consequently, no case for issuance of a writ of quo warranto is made out. The Constitutional Petition is, therefore, dismissed.

10. Before parting with this judgment, we observe that the Government of Sindh shall ensure strict adherence to statutory recruitment regulations in future appointments to technical posts

within SBCA, and shall uphold the principles of merit, transparency, and regulatory compliance in letter and spirit, particularly in view of the public safety considerations inherently associated with the mandate of SBCA.

11. All the above petitions are disposed of in the above terms along with pending applications if any.

JUDGE

JUDGE