

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-1994 of 2025
(*Ghulam Murtaza Lahbar 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:- 07.04.2026

Mr. Riaz Akhtar Soomro advocate for the petitioner.
Mr. Riaz Alam Khan advocate for the respondents No. 2 & 3.
Mr. Ali Safdar Depar, AAG.

ORDER

Adnan-ul-Karim Memon, J. – The petitioner Ghulam Murtaza Lahbar has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief(s):-

1. *To declare that the respondents No. 2 & 3 are illegally holding the posts of Vice Chancellor & Registrar Benazir Bhutto Shaheed University, Lyari Karachi as without qualification and selection criteria, and are liable to be issued a show cause notice as to why they are holding such offices at the cost of the public exchequer and against the principles of good governance.*
2. *To declare the impugned appointment letters of respondent No.2 through notification No. SO(U)/ U & B/ BSSLUL/ 12-6/2018-1496 dated 19.02.2025, as well as the appointment letter through notification No. BBSUL/ADMIN/2025/0107 dated 04.03.2025 of Registrar of BBSULK;*
3. *To declare the impugned notification illegally exercising powers/passing orders thereupon through reference No. BBSUL/Admin/2025/8721 dated 02.05.2025 and thereafter notifications/ office orders issued by both the respondents are no more in the field, and are liable to be set aside;*
4. *To direct the official respondents to immediately dispense with the service of respondent Nos. 2 & 3 and/ or return all the salaries and benefits they have illegally enjoyed on the public exchequer, which is acquired and enjoyed in the present positions by way of ill-gotten gains. In the meanwhile, restrain the respondents Nos. 2 & 3 from issuing any further office order/notification or holding syndicate proceedings in any manner;*
5. *To direct the respondent Nos. 1 & 4 to immediately select and shortlist the candidates according to law for both posts.*

2. Learned counsel for the Petitioner contended that the instant petition has been filed in the nature of a writ of *quo warranto*, calling into question the lawful authority of Respondent No.2 and Respondent No.3 to hold the public offices of Vice Chancellor and Registrar, respectively, of Benazir Bhutto Shaheed University Lyari, Karachi. It was argued that both appointments are ex facie illegal, having been made in violation of the prescribed statutory criteria under the Benazir Bhutto Shaheed University Act, 2009, as amended, as well as the Sindh Universities and Institutes Laws (Amendment) Act, 2025. Learned counsel submitted that Respondent No.2 does not fulfill the eligibility criteria for appointment as Vice Chancellor, and that the Search Committee and the competent authority acted in a mala fide and arbitrary manner by ignoring the mandatory legal requirements. It was further contended that Respondent No.3 was appointed as Registrar without following due process, and even assumed charge prior to the issuance of a valid appointment notification, thereby rendering his appointment void ab initio. It was also argued that

both respondents have engaged in acts of maladministration, abuse of authority, and manipulation of the Syndicate to perpetuate their illegal appointments, including interference in the electoral process of the Syndicate and extending undue benefits to their associates. Learned counsel emphasized that such actions undermine transparency, good governance, and the rule of law, and therefore warrant interference by this Court under its constitutional jurisdiction. He prayed to allow this petition by setting aside the appointment of the respondent No. 2 and 3.

3. Conversely, learned counsel appearing on behalf of Respondents No.2 and 3 raised preliminary objections regarding the maintainability of the petition. It was submitted that the Petitioner has not approached this Court with clean hands and has concealed material facts. Learned counsel pointed out that the Petitioner himself is facing disciplinary proceedings and has been found guilty of misconduct, including misrepresentation regarding his academic qualifications and violation of applicable rules, thereby disentitling him from invoking the constitutional jurisdiction of this Court. It was further contended that the Petitioner lacks locus standi and has filed the instant petition with mala fide intent to exert pressure on the University administration for personal gains. Learned counsel also submitted that the Petitioner had previously filed a similar petition challenging the same appointments, which was dismissed, and therefore the present petition is hit by the principle of res judicata. On merits, learned counsel for Respondents No.2 and 3 argued that the appointment of Respondent No.2 as Vice Chancellor was made strictly in accordance with the law and on the recommendation of a duly constituted Search Committee, followed by approval of the competent authority, i.e., the Chief Minister Sindh. It was emphasized that the applicable law at the time of appointment did not mandate a PhD as an essential qualification for the subject post, and the subsequent amendment of 2025 cannot be applied retrospectively to invalidate an appointment made prior thereto. Regarding Respondent No.3, it was submitted that his appointment was initially made as a look-after arrangement in accordance with statutory powers and was subsequently regularized through due competitive process. Learned counsel maintained that all actions taken by the official respondents as well as university were within the framework of law and under the supervision of the Syndicate, which is the competent authority in such matters. He prayed to dismiss the petition with cost.

4. Learned Assistant Advocate General, appearing on behalf of the respondent University and Boards, supported the stance of the private respondents and submitted that the appointment of Respondent No.2 was made after a transparent and competitive process. It was argued that the post of Vice Chancellor was duly advertised, applications were scrutinized by the Search Committee constituted under the relevant law, and after interviews and security clearance, the most suitable candidate was recommended and appointed by the Chief Minister Sindh. The learned

AAG further contended that the petition is not maintainable as it is based on mere conjectures and personal grievances of the Petitioner. It was also argued that this Court may not interfere in administrative matters and policy decisions unless there is clear evidence of mala fide or violation of law, which is lacking in the present case. Additionally, reliance was placed on the statutory protection available under the University law, which bars proceedings against actions taken in good faith. He submitted that the entire selection process was conducted strictly in accordance with law, and all candidates were evaluated on merit based on the criteria laid down in the advertisement and governing statutes. It was asserted that no illegality or favoritism was involved in recommending the name of Respondent No.2. He prayed to dismiss the petition.

5. We have heard learned counsel for the parties at length, perused the record, and examined the relevant statutory framework governing the appointments of Vice Chancellor and Registrar of Benazir Bhutto Shaheed University Lyari, Karachi.

6. At the outset, it is pertinent to observe that the present petition has been filed in the nature of a writ of *quo warranto*, whereby this Court is required to examine whether Respondents No.2 and 3 are holding public offices without lawful authority. The scope of *quo warranto* is well-settled, the Court is not concerned with the propriety or suitability of the appointment, but only with the legality thereof, i.e., whether the office is a public office, the incumbent fulfills the prescribed qualifications, and the appointment has been made in accordance with law.

7. In this regard, has held that in proceedings of *quo warranto*, the Court is primarily concerned with determining whether the appointment is contrary to statutory provisions. Similarly, it was reiterated that any citizen can invoke the jurisdiction of this Court in *quo warranto* to challenge an illegal occupation of a public office, irrespective of personal grievance. Further it was held that appointments made in violation of mandatory statutory requirements are liable to be struck down.

8. Adverting to the appointment of Respondent No.2 as Vice Chancellor, it is an admitted position that the governing law at the relevant time was the Benazir Bhutto Shaheed University Act, 2009, as amended in 2018. The relevant provision requires that the Vice Chancellor shall be “an eminent academic qualified to be a full Professor.” The record reflects that the appointment process was initiated through a public advertisement, applications were received, and the matter was processed through a duly constituted Search Committee, which recommended a panel of candidates to the competent authority, i.e., the Chief Minister Sindh, who approved the appointment of Respondent No.2.

9. The contention of the Petitioner that Respondent No.2 does not possess a PhD degree and is therefore ineligible does not carry legal force in the facts of the present case. A careful reading of the applicable statutory provision reveals that possession of a PhD degree was not an absolute and mandatory requirement at the time of appointment; rather, the emphasis was on being qualified to be appointed as a full Professor. It is a settled principle of law that eligibility criteria must be assessed in accordance with the law prevailing at the time of appointment, and subsequent amendments cannot operate retrospectively unless expressly provided. In this context, the Sindh Universities and Institutes Laws (Amendment) Act, 2025, having come into force after the appointment of Respondent No.2, cannot invalidate an appointment validly made under the earlier law.

10. The Supreme Court has categorically held that qualifications introduced subsequently cannot be applied retrospectively to unsettle vested rights. Therefore, the argument of the Petitioner regarding the applicability of the 2025 amendment is misconceived.

11. As regards the allegation of mala fide or arbitrary exercise of power in the selection process, no tangible material has been placed on record to substantiate the same. The process of shortlisting, interview, and recommendation by the Search Committee, followed by approval of the competent authority, prima facie satisfies the requirements of law. In *Quo Warranto* proceedings, the burden lies heavily upon the Petitioner to demonstrate a clear violation of law, which, in the present case, has not been discharged, therefore the court at this stage cannot nullify the appointment based on the assertion of the petitioner.

12. Turning to the appointment of Respondent No.3 as Registrar, the record indicates that the initial appointment was made as a look-after arrangement under the authority vested in the Vice Chancellor, and the matter was subsequently placed before the Syndicate, which is the competent statutory body. The Syndicate deliberated upon the issue, and the process for regular appointment was initiated, including advertisement and selection proceedings. It further appears that the continuation of Respondent No.3 was subject to ongoing recruitment processes and approval of the competent authority. Even if certain procedural irregularities are assumed as portrayed by the petitioner, it is well-settled that not every irregularity warrants interference in *Quo Warranto* jurisdiction unless it goes to the root of the matter and renders the appointment wholly without lawful authority. Primarily *Quo Warranto* lies only when the appointment is patently illegal and void, not where it is merely irregular or defective, therefore at this stage the appointment cannot be nullified at the shims of the petitioner.

13. The objection regarding maintainability raised by the respondents, particularly with respect to the conduct of the Petitioner and alleged concealment of material

facts, though relevant, need not be dilated upon in detail in view of the settled principle that *Quo Warranto* can be invoked by any person to ensure that public offices are not usurped unlawfully. However, such jurisdiction must still be exercised on the basis of clear illegality, which is lacking in the present case.

14. In the circumstances of the case, we are of the considered view that the appointment of Respondent No.2 as Vice Chancellor of respondent university was made through a lawful process under the applicable statutory framework, and no violation of mandatory eligibility criteria has been established. The requirement of a PhD degree was not an essential statutory condition at the relevant time and cannot be applied retrospectively. The appointment/continuation of Respondent No.3 as Registrar, being under consideration and subject to statutory processes, does not suffer from such patent illegality as to warrant interference under *Quo Warranto* jurisdiction. Prima facie no mala fide, illegality, or jurisdictional defect has been demonstrated which would justify the exercise of constitutional jurisdiction by this Court under Article 199 of the Constitution.

15. Consequently, the instant Constitutional Petition, being devoid of merit, is hereby dismissed along with pending application(s), with no order as to costs.

JUDGE

JUDGE