

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS
C.P No. D-40 of 2026

[*Riaz Muhammad and 04 others v. Province of Sindh and 02 others*]

DATE: ORDER WITH SIGNATURE(S) OF JUDGE(S)

1. For orders on M.A No.122/2026 (U/A)
2. For orders on office objections
3. For orders on M. A. No.123/2026 (Exemption)
4. For hearing of main case

14.01.2026

Haji Qalandar Bux Laghari, Advocate for the Petitioners

The petitioners have invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, seeking a direction to the respondents to appoint them to various lower-grade posts in the Government Boys Higher Secondary School, Abdullah Jarwar.

2. The brief factual canvas, as pleaded, is that one Abdullah, described as the elder of the petitioners' family, donated land measuring 01-00 acres for the establishment of the aforesaid school in the year 1985. It is asserted that the Education Department, as a matter of policy or established practice, accommodates the legal heirs of such donors by offering them employment in Class-IV or lower grade posts. The petitioners claim to have applied for certain vacant posts in the said school but allege that the respondents have failed to appoint them, thereby infringing their fundamental rights.

3. Learned counsel for the petitioners contends that the petitioners, being the legal heirs of the donor, possess a vested entitlement to be appointed. He submits that the respondents' refusal is arbitrary and discriminatory. He further argues that the petitioners have no alternate remedy and are thus justified in invoking the extraordinary jurisdiction of this Court.

4. Having heard learned counsel and perused the material available on record. We are constrained to observe that the petition is misconceived and does not disclose any enforceable legal right capable of protection under Article 199.

The entire claim rests on an alleged Government policy of accommodating donors' families. However, no statutory rule or notified policy has been placed on record or annexed with the instant petition to substantiate the existence of such a policy. Even if, for the sake of argument, some administrative practice existed, such a practice cannot metamorphose into a legally enforceable right. The public appointment is strictly regulated by statutory rules, and no person may claim appointment as a matter of right unless the law expressly confers such an entitlement.

5. It is equally significant that the donation of land is by its very nature a voluntary and gratuitous act. It does not create a quid pro quo obligation upon the Government to employ the donor or his heirs. To convert a charitable act into a perpetual entitlement to public employment would be wholly incompatible with the constitutional manner, particularly the mandates of equality and merit protected in Articles 25 and 27. This Court cannot sanctify a claim that is structurally *ultra vires* the constitutional scheme governing public service.

6. The relief sought is also non-justiciable as the petitioners seek a direction for their appointment. Still, this Court, in exercise of its constitutional jurisdiction under Article 199, cannot direct the Government to appoint a particular person, nor can it bypass the recruitment rules or assume the functions of the appointing authority. A writ of mandamus may be issued only where a statutory duty exists; however, in the present case, no such duty has been demonstrated. Moreover, the petitioners have failed to establish any violation of their fundamental rights. A mere non-appointment, in the absence of a statutory right or discriminatory treatment vis-à-vis similarly placed persons, does not constitute a breach of fundamental rights.

7. In view of the foregoing discussion, the petition is devoid of merit, bereft of any enforceable legal right and outside the acceptable contours of Article 199. Consequently, the same is **dismissed** in *limine* along with the listed applications.

JUDGE

JUDGE

AHSAN K. ABRO