

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4439 of 2026
(Zubair Ahmed Khan versus Province of Sindh & others)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhry

Date of hearing and order: 15.7.2026
Agha Ali Khan Durrani advocate alongwith
Mr. Imran Munwar advocate for the petitioner

ORDER

Adnan-ul-Karim Memon, J. Petitioner Zubair Ahmed Khan has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- I. *Declare that the Suspension Order bearing No. DIR/G.ADMIN/TMC/SF/2026/082 dated 30.04.2026 is illegal, void without lawful authority and of no legal effect has been issued are illegal, arbitrary, capricious, mala fide, without jurisdiction, in violation of principles of natural justice, Section 24-A of the General Clauses Act and Article(s) 4, 9, & 10-A of the Constitution, 1973 and the same is not sustainable in law and/or facts;*
- II. *Restrain the Respondents, their agents, subordinates, and any person acting on their behalf from interfering with the Petitioner's lawful functioning as Director, Trade Licence.*
- III. *Direct the Respondents to restore the Petitioner to his position forthwith with all consequential service benefits.*
- IV. *Suspend the operation of the impugned order during pendency of the instant petition based on the Impugned Notification.*

2. We asked about the maintainability of the instant petition against the suspension from service order which falls within the ambit of terms and conditions of service

3. Learned counsel for the Petitioner submits that the instant Constitutional Petition under Article 199 of the Constitution is maintainable as the impugned suspension order dated 30.04.2026 has been issued without lawful authority, jurisdiction, or compliance with the mandatory requirements of law. He submits that although the Petitioner is a BS-18 officer and was serving as Director Law, TMC Shah Faisal Town, the suspension order was issued at the alleged direction of the Chairman, TMC, who had no competence under the relevant service laws to suspend the Petitioner. Learned counsel contends that the impugned order is a non-speaking order, passed without issuance of any show-cause notice, charge-sheet, initiation of inquiry, or opportunity of hearing, thereby violating the principles of natural justice, due process, and fair trial guaranteed under Articles 4 and 10-A of the Constitution. He further submits that no disciplinary proceedings or

allegations of misconduct were pending against the Petitioner at the time of suspension. It is argued that the Petitioner has already availed the statutory remedy by filing an appeal under Section 143 of the Sindh Local Government Act, 2013; however, the same has not been decided despite lapse of considerable time. Therefore, the Petitioner has no other efficacious and effective remedy available except to invoke the constitutional jurisdiction of this Honourable Court. Although availability of an alternate remedy is generally a factor for consideration, it is not an absolute bar where the impugned action is alleged to be without jurisdiction or in violation of fundamental legal principles. Learned counsel further submits that the suspension order is a result of mala fide exercise of authority and personal victimization, as the Petitioner had previously been subjected to withholding of salary and withdrawal of official facilities by the same authority. He submits that the continued retention of a junior officer from another local government entity, while depriving the Petitioner of his lawful position and responsibilities, further demonstrates discriminatory treatment and abuse of authority. On these grounds, learned counsel prays that the impugned suspension order may be declared illegal, without lawful authority, and of no legal effect, and that the Petitioner be restored to his position with all consequential service benefits.

4. We have heard the learned counsel for the petitioner on the maintainability of the petition and perused the record with their assistance.

5. The primary issue before this Court is whether a Constitutional Petition under Article 199 of the Constitution is maintainable against an order of suspension issued in respect of the Petitioner's service, particularly when such matter relates to terms and conditions of service.

6. It is settled law that matters relating to terms and conditions of service of civil servants, including suspension, disciplinary proceedings, and other service-related grievances, ordinarily fall within the exclusive jurisdiction of the concerned forum/Tribunal, and the constitutional jurisdiction of the High Court under Article 199 cannot ordinarily be invoked as a substitute for the statutory remedy. The suspension of an employee is intrinsically connected with his service and disciplinary control; therefore, such matters are generally to be agitated before the competent service forum.

7. In the present case, the impugned order dated 30.04.2026 relates directly to the Petitioner's service status as a BS-18 officer and his grievance is essentially against an administrative action taken by the competent authority in the course of employment. The Petitioner has also acknowledged availability of a statutory remedy by filing an appeal under Section 143 of the Sindh Local Government Act, 2013, which provides that any person aggrieved by an order passed under the Act, rules, or bye-laws may prefer an appeal before the prescribed authority.

8. Although learned counsel has argued that the suspension order was issued without jurisdiction, without a show-cause notice, and in violation of principles of natural justice, such disputed questions regarding the competence of the authority, validity of the suspension, and alleged mala fide conduct are matters which can appropriately be examined by the competent statutory forum, unless the impugned action is shown to be a patent nullity or passed by an authority having absolutely no jurisdiction. Article 199 itself contemplates that constitutional jurisdiction is to be exercised where no other adequate remedy is provided by law.

9. The plea of violation of Articles 4 and 10-A of the Constitution, by itself, does not automatically confer jurisdiction upon this Court where a complete mechanism for redressal of service grievances exists. The Petitioner cannot bypass the statutory forum merely by alleging mala fide or violation of fundamental rights, particularly when the controversy arises out of an employer-employee relationship.

10. However, if the Petitioner establishes before the competent forum that the suspension order was issued by an authority having no lawful competence, without jurisdiction, or in a colourable exercise of power, the same shall be examined in accordance with law. The statutory authority is also required to decide the appeal expeditiously and in accordance with the principles of fairness and due process.

11. In view of the foregoing discussion, this Court is of the considered opinion that the instant Constitutional Petition, being directed against an order of suspension arising out of the terms and conditions of service, is not maintainable under Article 199 of the Constitution in view of the constitutional bar contained in Article 212 and availability of an efficacious statutory remedy. The Petitioner has already availed the remedy of appeal under Section 143 of the Sindh Local Government Act, 2013; therefore, he may pursue the same before the competent authority.

12. Accordingly, the petition is dismissed as not maintainable, with direction to the appellate authority to decide the pending appeal strictly in accordance with law, after providing opportunity of hearing to all concerned, preferably within a reasonable period.

JUDGE

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