

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4782 of 2026  
(Hussain Shahid versus Province of Sindh and others)

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| Date | Order with signature of Judge |
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Before:-  
Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Muhammad Jaffer Raza

Date of hearing & order: 07.8.2026

Mr. Shoukat Ali Abro, advocate for the petitioner  
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**ORDER**

**Adnan-ul-Karim Memon, J:-** Through the instant petition, the Petitioner has challenged the failure of the Respondents to decide his membership application, contending that such inaction amounts to an arbitrary exercise of authority and is amenable to judicial review under Article 199 of the Constitution. It is further asserted that Article 3(a) of the Articles of Association creates an obligation upon Respondent No.3 to objectively consider every eligible application, and that prolonged silence and non-decision violate the Petitioner’s fundamental rights guaranteed under Articles 4, 18 and 25 of the Constitution. The Petitioner has prayed that Respondents No.1 and 2 be directed to submit an action report taken on the legal notice dated 16.06.2026, and that appropriate directions be issued to ensure Respondent No.3 exercises its lawful jurisdiction by considering and deciding the Petitioner’s membership application submitted on 30.10.2023 in accordance with its Articles of Association. He further seeks a declaration that the continued failure of Respondent No.3 to decide the application is unlawful, arbitrary and discriminatory, along with directions to treat the Petitioner at par with similarly situated transport organizations and grant any other relief deemed just and proper.

2. Learned counsel for the Petitioner submits that the Petitioner is engaged in the business of transportation and logistics under the name and style of *Deer Logistic Solutions* and fulfills the eligibility criteria prescribed under Articles 1(g) and 3(a) of the Articles of Association of Respondent No.3. It is contended that after purchasing the prescribed application form and completing all requisite formalities, the Petitioner submitted his application for membership on 30.10.2023, which was duly acknowledged by Respondent No.3. It is further submitted that despite lapse of considerable time, neither any deficiency has been communicated nor any order accepting or rejecting the application has been passed. Learned counsel argues that repeated representations and a legal notice dated 16.06.2026 addressed to all Respondents have also remained unanswered. According to learned counsel, indefinite withholding of the Petitioner's application amounts to arbitrary exercise of discretion,

frustrates his legitimate expectation, adversely affects his business interests and violates Articles 4, 18 and 25 of the Constitution.

3. The primary issue is whether a constitutional petition under Article 199 of the Constitution is maintainable against Respondent No.3, which appears to be a private body/company/association governed by its Articles of Association.

4. Article 199 of the Constitution empowers the High Court to issue constitutional writs against “any person performing functions in connection with the affairs of the Federation, a Province or a local authority” and, in certain cases, against persons or authorities exercising statutory or public functions. The jurisdiction is primarily available to correct unlawful exercise of public law powers and not to enforce purely private contractual rights.

5. In the present case, the grievance of the Petitioner relates to non-decision of his membership application by Respondent No.3 under its Articles of Association. The Articles of Association constitute an internal governing document of a private association and the relationship between the applicant and the association is essentially contractual in nature. Unless Respondent No.3 is shown to be a statutory body, an instrumentality of the State, or performing a public function having a direct nexus with governmental authority, its internal decisions regarding admission of members would ordinarily fall outside the scope of judicial review under Article 199 of the constitution.

6. Although the Petitioner has invoked Articles 4, 18 and 25 of the Constitution, mere assertion of violation of fundamental rights does not confer constitutional jurisdiction against a private entity. The Petitioner has failed to establish that the Respondent is amenable to writ jurisdiction by demonstrating the existence of a public duty or statutory obligation. In the absence of such element, the matter remains a private dispute relating to membership rights, for which the Petitioner may avail an appropriate civil remedy.

7. Furthermore, Article 3(a) of the Articles of Association may create an obligation upon Respondent No.3 to consider membership applications; however, such obligation arises from the contractual framework of the association and does not, by itself, transform the Respondent into a public authority amenable to constitutional review. A failure to process an application may amount to breach of internal rules or unfair conduct, but it cannot automatically be treated as an arbitrary exercise of public authority.

8. Therefore, unless the Petitioner establishes that Respondent No.3 performs statutory/public functions or is subject to governmental control, the constitutional petition under Article 199 is prima facie not maintainable against a purely private body.

9. Heard learned counsel for the Petitioner on the maintainability of the petition as discussed supra and examined the available record.

10. The entire case of the Petitioner is founded upon the alleged failure of Respondent No.3 to process and decide his membership application in terms of its Articles of Association. The Petitioner seeks issuance of a writ of mandamus against Respondent No.3 by alleging that such inaction is arbitrary, discriminatory and violative of Articles 4, 18 and 25 of the Constitution. However, the said contention cannot be accepted as the Petitioner has failed to establish the essential prerequisite for invoking the constitutional jurisdiction of this Court, i.e., that Respondent No.3 is amenable to writ jurisdiction under Article 199 of the Constitution.

11. It is settled law that the extraordinary jurisdiction of the High Court under Article 199 is attracted only where the impugned action is attributable to a person, authority or body performing functions of a public nature or exercising statutory powers. The constitutional jurisdiction is meant to remedy unlawful exercise of public authority and cannot be invoked for enforcement of rights arising out of a purely private arrangement, contractual relationship or internal affairs of a private association.

12. In the instant matter, Respondent No.3 is admittedly governed by its Articles of Association, which constitute its internal regulatory framework. The alleged obligation to consider membership applications emanates from the said Articles and not from any statutory provision. Therefore, even if Respondent No.3 has failed to decide the Petitioner's application within a reasonable period, such omission may give rise to a private cause of action, but it does not amount to failure to perform a public duty so as to attract the extraordinary jurisdiction of this Court.

13. The argument of learned counsel for the Petitioner that prolonged silence amounts to arbitrary exercise of authority and violation of fundamental rights is misconceived. The doctrine of arbitrariness, legitimate expectation and fair treatment applies against public authorities exercising public power. A private association cannot be subjected to constitutional standards unless it is demonstrated that the association performs a governmental, statutory or public function. Mere incorporation of principles of fairness in the Articles of Association does not convert a private body into a public authority.

14. Similarly, reliance upon Articles 4, 18 and 25 of the Constitution is misplaced. Fundamental rights are enforceable through constitutional jurisdiction against the State and its instrumentalities or persons performing public functions. The Petitioner cannot claim enforcement of a fundamental right against Respondent No.3 merely based on an alleged delay in acceptance of his membership application. The dispute

essentially relates to admission of membership in a private organization, which falls within the domain of private law.

15. The contention that Article 3(a) of the Articles of Association creates an enforceable obligation upon Respondent No.3 also does not advance the case of the Petitioner. Even assuming that the said provision requires objective consideration of applications, the remedy for breach thereof would lie before the appropriate forum having jurisdiction over private contractual or corporate disputes. This Court, while exercising constitutional jurisdiction, cannot assume the role of an appellate authority over the internal decisions of a private association or direct it to admit a particular person as a member.

16. Moreover, the Petitioner has not placed any material on record to establish that Respondent No.3 is controlled, financed, regulated, or supervised by the Government, nor has he demonstrated that membership of Respondent No.3 carries any statutory consequence or public character. In the absence of such foundational facts, the mere assertion that the association deals with transport organizations does not make its membership decisions a matter of public law.

17. Accordingly, this Court is of the considered view that the grievance raised by the Petitioner, though it may involve an alleged delay or non-response by Respondent No.3, does not fall within the scope of judicial review under Article 199 of the Constitution. The petition, being directed against a private body in relation to a purely private membership dispute, is not maintainable and is liable to be dismissed. However, the Petitioner shall remain at liberty to avail any other remedy available to him under the relevant law before the competent forum.

18. Resultantly, the constitutional petition is dismissed in limine as not maintainable under Article 199 of the Constitution.

JUDGE

JUDGE