

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitution Petition No. D-389 of 2024
[Dr. Imamuddin and another vs. Province of Sindh and others]

Before:-

Mr. Justice Amjad Ali Bohio,
Mr. Justice Ali Haider 'Ada'.

Petitioner No.1 : Dr. Imamuddin, *through*
Mr. Sheeraz Fazal, Advocate.

Petitioner No.2 : Dr. Azhar Ali Shah, *through*
Mr. Ghulam Shabbeer Shar,
Advocate.

Respondent No.1 : Province of Sindh through
Secretary Universities and
Board Department,
through, Mr. Ali Raza Balouch,
Additional Advocate General
Sindh.

Respondents No.2 to 5 : The Shaheed Mohtarrama
Benazir Bhutto Medical
University (SMBBMU),
Larkana, through its Registrar
and others, *through*, Mr. Jam
Zuhaib Ahmed, Advocate.
Dr. Nusrat Kamal Shah, Vice
Chancellor and Dr.Fahad
Jibran Siyal Registrar SMBBU.
Larkana.

Respondent No.06 : The Pakistan Medical & Dental
through its Registrar
Islamabad. (*Nemo*)

Date of Hearing : 26.02.2026.
Date of decision : 15.04.2026.

ORDER

Ali Haider 'Ada' J.- The instant Petition was disposed of by this Court vide order dated 08.05.2024. Subsequent to the passing of the said order, the petitioners, being aggrieved by the acts of the

respondents and alleging non-compliance with the directions contained therein, approached this Court by filing Contempt Applications No. 6879 of 2024 and 1984 of 2025, asserting that the respondents had committed contempt of Court.

2. Through the instant petition, the petitioners have impugned the advertisement issued by Shaheed Mohtarma Benazir Bhutto Medical University, Larkana (University), whereby applications were invited for various posts in the teaching cadre. The grievance of the petitioners, who are serving as Associate Professors, is that 50% of the posts ought to have been filled through promotion rather than direct recruitment. Various pleas were raised in this regard.

3. The matter was ultimately decided by this Court through the aforementioned order dated 08.05.2024. The petitioners have placed reliance on paragraph No. 13 of the said order, contending that the same has not been complied with by the University. For ready reference, the relevant portion is reproduced hereunder:

13. When confronted to the parties the legal position of the case in promotion matters, they after arguing the matter at some length both the parties agreed to refer the matter of promotion of the petitioners to Selection Board of the respondent-university for re-consideration and decision thereon in the light of order passed by this Court as discussed supra and the observation recorded in the preceding paragraphs, however at the same time the Selection Board shall examine all the aspect of the case of the petitioners so far as their request for promotion on the aforesaid analogy is concerned and if their case falls within the ambit of criteria as set forth under the law, appropriate decision shall be taken within two weeks, subject to providing all concerned meaning full hearing

14. This petition is disposed of along with pending application(s) in the terms discussed supra.

4. In response thereto, a compliance report was submitted by the alleged contemnors/University on 12.01.2026. The petitioners also filed objections to the said report. Thereafter, a detailed para-wise compliance report dated 26.02.2026 was filed by the alleged contemnors, wherein responses to each paragraph of the order were

furnished. Insofar as paragraph No. 13 is concerned, the alleged contemnors have specifically addressed the compliance of the directions contained therein in detail. For ready reference, the relevant portion is reproduced hereunder:

COMPLIANCE: *In Para No. 13 of the Order dated: 08-05-2024, the contents of this Para were also presented before the Selection Board along with the submission that, the Selection Board was specifically called in compliance of the aforementioned order to refer the matter of Promotion of the petitioners for re-consideration and decision thereon in light of the order passed by the Honourable High Court Bench at Sukkur, in constitution petition No. 389 of 2024 RE Dr. Imamuddin Baloch and another V/S P.O Sindh and others for examination of all the aspects of the case of the petitioner as far as their request for promotion on the aforementioned analogy is concerned and if their case falls within the ambit of criteria as set forth under the law, appropriate decision shall be taken within two weeks subject to providing all the concerned meaningful hearing, and in that regard, this Selection Board is convened. Accordingly, the cases of petitioners were examined thoroughly and in detail and after giving the opportunity of Personal Hearing to the petitioners, wherein, they were confronted with the above discussed facts and laws to which they had no reply except mentioning proposed policy by certain teachers organization which is not yet approved by the HEC and is pending before it. Therefore, in such circumstances, and in light of the decisions taken in 38% and 54 Syndicate held in the years 2019& 2025 respectively, HEC reply through email dated: 12 December 2025 and First Statute of the Respondent University, it was unanimously held that, because the Respondent University does not have any promotion policy for Faculty members, of which, the petitioners are well aware and beneficiaries of, and also because even this time, the petitioners willfully appeared and participated in previous selection board held on 25th March 2025 for the appointment of the same posts which are prayed for, therefore, their case of promotions is regretted and declined.*

Consequently, on such decision of the 47 Selection Board meeting held on 05-01-2026 the Syndicate of the University was called on 08-01-2026, wherein, the Syndicate vide its Resolution / Decision No. Syn-60/08.01.2026/Item-5 unanimously approved its recommendation i.e.

a. The Selection Board resolved that, the University would obtain necessary approval from Government of Sindh for filling up vacant Faculty positions forthwith at earliest.

b. It was unanimously resolved that as per Syndicate decisions passed in 38th meeting, faculty can only be appointed through Selection Board after advertisement and following an open competitive process. In addition as per HEC regulations Le. E-

mail dated 12th December 2025 received from HEC Islamabad, the HEC does not have any promotion policy for BPS faculty.

c. The request of Dr. Imamuddin Baloch, Associate Professor of Surgery for promotion to the post of Professor Surgery at GMMMC Sukkur is regretted.

d. The request of Dr. Azhar Shah, Associate Professor of Surgery for promotion to the post of Professor Surgery at GMMMC Sukkur is regretted.

Hence, it is submitted that the Answering Respondents/alleged contemnors have utmost regards for the order of this Honourable Court and have presented the case of petitioners before the Selection Board in light of the order dated: 08-05-2024 for examination of all the aspects of the case of petitioners and also to examine whether, their request for promotion on the said analogy falls within the ambit of criteria as set forth under law and also to provide the petitioners meaningful hearing and after due and diligent consideration and examination the Selection Board unanimously held that, in light of prevalent laws governing the Responding University the promotion policy does not exist in therefore, the request of the petitioners in light of the facts and grounds discussed supra are regretted/declined. However, since, the University requires the Senior Faculty member for its smooth functioning and departing the quality education but, at the same time is bound to get the approval from the competent authority ie the Chief Minister, therefore, it was also resolved to get the approval for filling the vacant positions as soon as possible through the procedure provided under the law.

This Compliance Report is submitted for kind perusal, record and consideration.

5. Learned counsel for the petitioners primarily contended that, despite specific directions issued by this Court to refer the matter of promotion of the petitioners to the Selection Board of the University for reconsideration and decision in light of the observations made in the earlier order (as discussed in the preceding paragraphs), the respondent-University failed to comply with the same. It was further argued that the Selection Board was required to examine all aspects of the petitioners' cases within the framework of the applicable law; however, instead of doing so, the respondent-University reviewed the matter through a subsequent Syndicate meeting and the Selection Board acted in a manner contrary to the legal requirements. According to the learned counsel, the alleged

contemnors, without duly considering all relevant aspects, have committed contempt of the order of this Court and are, therefore, liable to be proceeded against. It was further argued that the cases of the petitioners, who are serving as Associate Professors, ought to have been considered for promotion in accordance with law.

6. Conversely, learned counsel for the respondent-University contended that the contempt applications are misconceived on the face of the record. It was submitted that the cases of the petitioners were duly placed before the Selection Board; however, the petitioners relied upon certain policies which are not recognized by the Higher Education Commission, and presently there exists no statutory promotion policy governing faculty members. It was further submitted that appropriate recommendations were made by the Selection Board, which were subsequently considered in the Syndicate meeting held on 08.01.2026. It was pointed out that petitioner No. 2, namely Dr. Azhar Ali Shah, being a member of the Syndicate, attended the said meeting. Learned counsel argued that the order dated 08.05.2024 does not confer any vested right of promotion upon the petitioners; rather, it only required that their cases be placed before the Selection Board, which direction has been duly complied with. The recommendations, after thorough deliberation, were approved by the competent authority.

7. Learned Additional Advocate General adopted the same stance and submitted that although this Court had issued directions, it had not granted promotion as a matter of right. It was emphasized that promotion of employees is subject to the relevant statutory framework, and the posts in question fall within the domain of faculty positions. The University, therefore, acted in accordance with law by making recommendations and placing the matter before the competent authority.

8. Heard. Record perused with the able assistance of learned counsel for the parties.

9. At this juncture, it is to be first examined whether the earlier order of this Court directed that the petitioners be promoted. A careful perusal of the said order reflects that no such relief was granted. It was neither directed that the impugned advertisement be cancelled, nor was any direction issued mandating the promotion of the petitioners under any policy, including those contemplated in earlier Syndicate meetings. No such explicit or implicit command can be derived from the order passed by this Court.

10. Secondly, it is observed that a detailed para-wise compliance report has been submitted by the alleged contemnors, and the relevant portions thereof have already been reproduced hereinabove. At this stage, when compliance has been reported, it is also noted that the University has taken the stance that necessary approval would be obtained from the Government of Sindh for filling the vacant faculty positions in accordance with law. Furthermore, reliance has been placed upon the 38th Syndicate meeting, wherein it was resolved that faculty appointments are to be made through the Selection Board on the basis of open competitive merit, in line with the guidelines of the Higher Education Commission. In the said meeting, the request of both petitioners for promotion was duly regretted.

11. At this stage, the limited question before this Court is whether the present contempt applications are maintainable after disposal of the main petition. The record reveals that the directions issued by this Court have been complied with, and a compliance report has duly been submitted; thus, the matter stands concluded to that extent. In case the petitioners are aggrieved by any decision taken by the Selection Board, the same cannot be agitated through contempt proceedings, as the scope of contempt jurisdiction is limited to

examining whether the order of the Court has been complied with, and does not extend to adjudicating the merits of subsequent decisions. For ready reference, Article 204 of the Constitution of the Islamic Republic of Pakistan, 1973, is reproduced hereunder:

[204. (1) In this Article, "Court" means the Supreme Court or a High Court.

(2) A Court shall have power to punish any person who –

(a) abuses, interferes with or obstructs the process of the Court in any way or disobeys any order of the Court ;

(b) scandalizes the Court or otherwise does anything which tends to bring the Court or a Judge of the Court into hatred, ridicule or contempt;

(c) does anything which tends to prejudice the determination of a matter pending before the Court; or

(d) does any other thing which, by law, constitutes contempt of the Court.

(3) The exercise of the power conferred on a Court by this Article may be regulated by law and, subject to law, by rules made by the Court.]

12. The law relating to contempt of Court has changed over time. Initially, the Contempt of Court Act, 1926 provided punishment for contempt, including imprisonment up to six months or a fine. Later, this law was replaced by the Contempt of Court Act, 1976, which also dealt with punishment for committing or abetting contempt of Court. Afterwards, the Contempt of Court Ordinance, 2003 repealed the 1976 law and introduced a more detailed framework. Section 3 of the Ordinance explains what acts amount to contempt of Court, while Sections 4 and 5 deal with punishment and allow an accused person to submit an apology at any stage, subject to the satisfaction of the Court. In this regard, Section 3 of the said Ordinance is relevant and is reproduced hereunder for ready reference:

3. Contempt of Court.---Whoever disobeys or disregards any order, direction or process of a Court, which he is legally bound to obey; or commits a willful breach of a valid undertaking given to a Court; or does anything which is intended to or tends to bring the authority of a Court or the administration of law into disrespect or disrepute, or to interfere with or obstruct or interrupt or prejudice the process of law or the due course of any judicial proceedings, or to lower the authority of a Court or scandalize a Judge in relation to his office, or to disturb the order or decorum of a Court, is said to commit

“contempt of Court”. The contempt is of three types, namely, the “civil contempt”, “criminal contempt” and “judicial contempt.

13. The Supreme Court of Pakistan in *Ch. Zahur Ilahi, M.N.A. v. Zulfikar Ali Bhutto and 2 others* [PLD 1975 SC 383] held that contempt is an extraordinary power, to be exercised with caution and only when necessary in the public interest. In *Saadat Khialy, Staff Reporter (“Kohistan” Daily) and others v. The State and another* [PLD 1962 SC 457], it was held that contempt proceedings are *sui generis*, sharing civil and criminal elements but bound by neither, though the accused must have a fair opportunity of defence. These principles were reaffirmed in *Syed Masroor Ahsan and others v. Ardeshir Cowasjee and others* [PLD 1998 SC 823], *Shahid Orakzai v. Pakistan Muslim League (Nawaz Group) and 8 others* [2000 SCMR 1969], and *The State v. Khalid Masood* [PLD 1996 SC 42]. In *Syed Ahmad Shah and Feroze Din v. The State and another* [PLD 1967 SC 42], the Court emphasized that contempt proceedings are summary in nature and must be exercised with care, on clear proof. Thus, contempt proceedings are extraordinary, *sui generis*, and primarily aim to uphold the dignity of the Court and the administration of justice (*Ch. Zahur Ilahi*, [PLD 1975 SC 383]). The question, therefore, is whether the actions taken were beyond the scope of the Court’s order.

14. It is a settled principle that proceedings to enforce an order in the nature of mandamus are permissible only where such mandamus is of an absolute character. In matters involving considerations such as terms and conditions of service, the same fall exclusively within the domain of the relevant executive authorities. Such issues require careful examination and involve the exercise of discretion and judgment in relation to complex factors. Therefore, enforcement of such matters through contempt proceedings, particularly by way of committal, has been disapproved. In this context, reliance is placed upon the case of *The State of Pakistan and another v. Mehrajuddin* (PLD 1959 SC 147).

15. Further, the primary object of initiating contempt proceedings is not personal proof, but to uphold the dignity and honour of the Court and to preserve the integrity of the judicial process. In the case of *Mst. Farhat Agha v. Government of Sindh through Secretary and others* (2017 CLC Note 232, DB-Sindh), it has been observed that contempt proceedings cannot be initiated merely at the desire or whim of a litigating party. The Court must first be satisfied that the alleged contemnors have committed an act falling within the mischief of contempt law. Where a petitioner fails to satisfy the Court regarding the maintainability of a contempt application, such application is liable to be dismissed in the circumstances.

16. In these circumstances, we are of the considered view that none of the respondents have, either intentionally or unintentionally, committed any contempt of this Court. Even otherwise, there is nothing on record to suggest that the respondents acted with any contumacious or defiant intent towards the orders of this Court. The record also does not show any ill will, default, or deliberate intention to commit contempt; therefore, the contempt proceedings are not maintainable. Support in this regard is drawn from the case of *Muhammad Zahid and another v. Director of Schools and Literacy, N.-W.F.P., Peshawar and others* (2006 CLC 1576, Peshawar High Court, Division Bench).

17. In view of the foregoing reasons and discussion, it is abundantly clear that the present case does not attract the jurisdiction of contempt proceedings. Accordingly, the contempt applications, along with other listed applications, are hereby dismissed. So far as the order dated 26.02.2026 is concerned, whereby the operation of the advertisement dated 14.03.2024 was suspended, the same is hereby recalled.

JUDGE

JUDGE