

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitutional Petition No. D-150 of 2026.

[Ali Nawaz and others vs. Federation of Pakistan and others]

Before:-

Mr. Justice Amjad Ali Bohio.

Mr. Justice Ali Haider 'Ada'.

For hearing of case (Priority)

1. For orders on CMA No. 1772/26 (C/A).
2. For orders on CMA No.1873/26 (151 CPC).
3. For orders on CMA No.1833/26 (Ex/A).
4. For orders on CMA No.1834/26 (1 Rule 10).
5. For orders on CMA No.1521/26 (1 Rule 10).
6. For orders on CMA No.512/26 (S/A).
7. For hearing of main case.

23.04.2026.

M/s Rukhsar Ahmed Junejo, Shabbir Ali Bozdar and Badaruddin Memon, Advocates for the petitioners.

Mr. Mehboob Ali Wassan, Advocate for applicants/ intervenors.

Mr. Saeed Ahmed Baloch, Advocate for Respondent No.2 and 3.

Mr. Ali Raza Balouch, Additional Advocate General.

Mr. Asadullah Rajper, Assistant Attorney General.

Dr. Kaleemullah Shaikh, DHO Khairpur and Irfan Hyder, District Manger, PPHI, DO Khairpur-A.

ORDER

Ali Haider 'Ada' J.- The instant petition pertains to the prayer for shifting the location of the proposed construction of the Mother and Child Health Centre from Deh Chohar Shar, U.C. Block Khenwari, as initially selected by the Human Development Foundation and approved by Oil and Gas Development Company Limited (OGDCL), to another site, which is sought to be declared as null and void.

2. Learned counsel for the petitioners contended that the revenue hierarchy, with an intent not to facilitate the public at large, has sought to change the originally approved site. It is further contended that the petitioners had duly executed deeds of donation

in favour of the Human Development Foundation as well as OGDCL for the establishment of health care centres; however, despite such donation, the revenue authorities submitted allegedly false reports, resulting in an unjustified change of location, which is claimed to be illegal and arbitrary.

3. Conversely, learned Additional Advocate General submitted that the land in question, as claimed by the petitioners, is government land and the official respondents have a concern with the ownership dispute raised. It is further stated that the District Health Officer, Khairpur Mir's, after considering ground realities and population density, pointed out an alternative site in the larger public interest. Reliance is placed upon a site visit report prepared by the District Manager, PPHI Khairpur, wherein it was observed that five health facilities already exist in the area, out of which three are functional. It was further submitted that staffing details and infrastructural feasibility were also considered, and the proposed site was found more viable in view of the greater surrounding population, as compared to the site at U.C. Khenwari claimed by the petitioners.

4. Heard the learned counsel for the parties and perused the material available on record.

5. At the very outset, it is observed that the question regarding ownership status of the land allegedly donated by the petitioners involves disputed questions of fact, which cannot appropriately be adjudicated upon in exercise of constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. Reliance in this regard is placed on *Special Secretary-II (Law and Order), Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar and others v. Fayyaz Dawar* (2023 SCMR 1442), *Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others v. Intizar Ali and others* (2022 SCMR 472), *Province of Punjab through Secretary Communication*

and Works Department, Lahore v. Yasir Majeed Sheikh and others (2021 SCMR 624), and Messrs Fateh Yarn (Pvt.) Ltd. Faisalabad v. Commissioner Inland Revenue Faisalabad and others (2021 SCMR 1133).

6. It further appears from the record that a feasibility study, conducted by the Health Department and allied functionaries, has concluded that the revised location is more suitable and feasible in order to better serve the public at large. The petitioners have failed to demonstrate that the said feasibility assessment is arbitrary, mala fide, or suffers from any jurisdictional defect. It is well-settled that policy formulation and administrative decision-making fall within the exclusive domain of the executive authorities, and Courts ordinarily refrain from interfering therein unless the same is shown to be violative of law or the Constitution. Guidance in this regard may be derived from *Peshawar Electric Supply Company Ltd. (PESCO) and another v. SS Polypropylene (Pvt.) Ltd., Peshawar and others (PLD 2023 SC 316)*, *Messrs Sadiq Poultry (Pvt.) Ltd. v. Government of Khyber Pakhtunkhwa through Chief Secretary and others (PLD 2023 SC 236)*, and *Sikandar Ali and others v. Province of Sindh through Secretary Education and Literacy Department, Sindh Secretariat, Karachi and others (2023 PLC (C.S.) 566)*.

7. In view of the foregoing facts and circumstances, no case is made out for interference in the policy decision regarding establishment or shifting of health facilities. The petition is found to be devoid of merit and is accordingly dismissed.

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