

# HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

**C.P. No.D-640 of 2026**

*[Abdul Khalique Rajput vs. Federation of Pakistan and others]*

**Before:**

**JUSTICE ADNAN-UL-KARIM MEMON**

**JUSTICE MUHAMMAD JAFFER RAZA**

|                  |                                                                                                                              |
|------------------|------------------------------------------------------------------------------------------------------------------------------|
| Petitioner:      | In person                                                                                                                    |
| Respondents      | By Mr. Ghulam Abbas Sangi, Assistant Attorney General, a/w representative of the respondent Department, Muhammad Ayoub Memon |
| Date of hearing  | 20.10.2026                                                                                                                   |
| Date of Decision | 20.10.2026                                                                                                                   |

## **O R D E R**

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**ADNAN-UL-KARIM MEMON J:-** The petitioner prays that the fee charged by the respondents be declared illegal and unconstitutional; the respondents be restrained from collecting the fee pending final adjudication; and any other appropriate relief, including costs, be granted.

2. The petitioner, who appears in person, states that he resides in Hyderabad due to his service and that his son, Abdul Malik, is studying in Class IX at FG Public School No. 1 (Boys), Hyderabad Cantt, administered by the Ministry of Defence, Government of Pakistan. He claims that the school primarily caters to children of lower-income families, including those of soldiers and havaldars, and charges a monthly fee of Rs.840 from his son, despite the constitutional guarantee of free and compulsory education under Article 25-A of the Constitution. He maintains that education is free up to the Intermediate level in Sindh and up to Matriculation in Federal Government Model Schools, Islamabad. His representation dated 15.12.2025 seeking waiver of the fee was rejected by respondent No.1 through a letter dated 21.01.2026, received on 05.03.2026, without reasonable justification. Claiming infringement of his fundamental rights and absence of any other efficacious remedy, he seeks a declaration that the fee charged by the respondents is illegal and unconstitutional, and restraint against its collection.

3. Learned AAG, assisted by the representative of the respondents, by way of preliminary objections, contends that this Court lacks territorial jurisdiction to entertain the petition, as the impugned letter dated 21.01.2026 was issued by respondent No.1, Secretary, Ministry of Defence, whose office is situated at

Rawalpindi, along with respondent No.2, an attached department under the Rules of Business, 1973. He argues that respondents 3 & 4 have unnecessarily been impleaded, as no specific relief is sought against them, rendering the petition defective for misjoinder of parties. Relying upon *Taufiq Asif and others v. General (Retd.) Pervez Musharraf and others* (PLD 2024 SC 610), *Rechitt & Colman (U.K.) PLC v. Sheikh Soap Factory and another* (PLD 1993 SC 129), and *Major (R) Saif Ullah Khan Babar v. Federation of Pakistan* (W.P. No. 537 of 2025), he maintains that territorial jurisdiction is determined by the impugned act or proceedings and the dominant object and ultimate relief sought. As the principal relief is declaratory and challenges an order issued at Rawalpindi, he asserts that the matter falls within the territorial jurisdiction of Lahore High Court, Rawalpindi Bench, rather than this Court. Accordingly, he prays that the petition be returned under Order VII, Rule 10, CPC, for presentation before the competent Court.

4. The principal question is whether the monthly fee of Rs.840 charged to a Class IX student at F.G Public School No.1 (Boys), Hyderabad Cantt., violates Article 25-A of the Constitution, which guarantees free and compulsory education to children aged five to sixteen years. Although the said provision imposes a positive obligation upon the State, every fee is not automatically unconstitutional; its legality needs to be examined in light of the applicable law, the purpose of the charge, and its effect on the guaranteed right. The Ministry of Defence's administration of the school does not, by itself, exclude it from Article 25-A. Accordingly the decisive question is whether the impugned fee is lawfully authorized and consistent with the constitutional guarantee.

5. The objection to territorial jurisdiction primarily depends upon the dominant object of the petition, the ultimate relief sought, and the place where the impugned action operates; the mere involvement of a federal authority does not confer jurisdiction on every High Court. In the present case, the student attends school in Hyderabad, where the disputed fee is being collected, and the relief sought directly concerns the local institution. These circumstances provide a substantial basis for holding that part of the cause of action arose within Sindh.

6. In such circumstances, this matter is adjourned to be taken up after three weeks; parties are directed to assist this court on the subject issue.

JUDGE

JUDGE