

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-1914 of 2026

[Ali Hyder and others V. Province of Sindh and others]

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and Order: 10.08.2026

M/s Mohsin Ali Rahimoon and Leela Ram, Advocates for the Petitioners.
 Mr. Abdul Jalil Zubedi, AAG along with Muhammad Ishaque, D.D. Finance,
 STS/Sukkur IBA University and Allah Ditta Khoso, Litigation Officer of Sindh
 Education & Literacy Department.

ORDER

Adnan-ul-Karim Memon, J. – Petitioners have filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief:

“In the light of the above facts and circumstances, it is respectfully prayed on behalf of the petitioners above named that this Hon'ble Court may graciously be pleased to pass the following orders:

A. To declare that the revised provisional result issued through letter No. STS/SEC/300/26 dated 07-03-2026 is illegal, unconstitutional and without lawful authority.

B. Declare that the change of eligibility criteria after completion of the recruitment process is null and void.

C. Direct the respondents to restore the original result dated 26-07-2025 and consider the petitioners for appointment to the post of Monitoring Assistant (BPS-14) strictly in accordance with the originally advertised criteria.

D. Suspend the operation of the revised result dated 07-03-2026 till final decision of this petition.

E. Grant any further or better relief that this Hon'ble Court may deem just and proper in the facts and circumstances of the case.”

2. The case of the Petitioners is that they applied for the post of Monitoring Assistant (BPS-14) in the School Education & Literacy Department, Government of Sindh, pursuant to advertisement No. INF-KRY-No.141/2025, through SIBA Testing Services (STS). The advertised eligibility required, inter alia, graduation with at least Second Division and a valid motorcycle driving licence. The Petitioners submitted their applications along with the required documents, including motorcycle learner licences. Their applications were accepted; they were declared eligible, issued admit cards and permitted to appear in the written test conducted on 18.05.2025. They subsequently qualified the test and were

included in the result announced by STS. The Petitioners' grievance is that, after completion of the recruitment process and announcement of the result, the eligibility condition concerning the motorcycle licence was allegedly changed retrospectively. Vide letter dated 27.02.2026, the School Education & Literacy Department directed STS to exclude candidates who possessed only learner licences before the closing date or obtained permanent licences after 15.02.2025. Consequently, STS issued a revised provisional result dated 07.03.2026, followed by a revised final result dated 13.03.2026, whereby the Petitioners were excluded. The Petitioners contend that the respondents, having accepted their applications, declared them eligible, conducted their test and declared them successful, could not subsequently alter or reinterpret the eligibility criteria to their disadvantage. They assert that the impugned action is arbitrary, discriminatory, without lawful authority and violative of Articles 4, 18 and 25 of the Constitution, as well as the principles of fairness, transparency and legitimate expectation. They therefore seek restoration of the original result dated 26.07.2025 and consideration for appointment in accordance with the originally advertised criteria.

3. Respondent No.4, SIBA Testing Services (STS), submits that it is merely a testing agency engaged by the School Education & Literacy Department under an MoU to receive applications, conduct the written test and furnish the result to the concerned department. According to STS, determination and verification of the eligibility criteria is the responsibility of the client department, and STS has no role in making appointments or preparing the final merit list. STS states that the applications were initially processed on the basis of the documents uploaded by the candidates and the written test was conducted on 18.05.2025. However, the School Education & Literacy Department, vide letter dated 27.02.2026, directed STS to exclude candidates who possessed only learner licences before the closing date or obtained permanent licences after 15.02.2025, based on advice received from the Services, General Administration & Coordination Department in consultation with the Law Department. In compliance with the said direction, STS issued the revised provisional result on 07.03.2026 and the revised final result on 13.03.2026. STS maintains that it did not independently alter the eligibility criteria, but merely implemented the clarification/direction of the concerned department. It further contends that since the Petitioners admittedly did not possess valid permanent motorcycle licences by the closing date, their exclusion was in accordance with the advertised requirement. Accordingly, STS denies any illegality on its part and seeks dismissal of the petition qua Respondent No.4.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. The controversy essentially revolves around the question whether, after completion of the written test and declaration of the original result, the respondents could retrospectively alter, restrict or reinterpret the eligibility requirement relating to possession of a motorcycle driving licence, thereby excluding candidates who had already been declared eligible and successful.

6. It is an established principle of fair recruitment that the eligibility conditions prescribed in the advertisement constitute the governing framework of the selection process. The recruiting authority cannot, after the process has substantially progressed or after candidates have acquired a position on the basis of the advertised criteria, introduce a new condition or give the existing condition a materially different meaning so as to adversely affect their vested procedural entitlement to be considered in accordance with the rules and criteria originally notified. Such retrospective alteration would offend the principles of fairness, transparency, equal treatment and legitimate expectation.

7. In the present case, the Petitioners applied pursuant to the advertisement, furnished the documents required by the respondents, were accepted as eligible, were issued admit cards, participated in the written examination held on 18.05.2025 and were thereafter included in the result dated 26.07.2025. At no stage before or during the recruitment process were they informed that possession of a permanent motorcycle driving licence, as opposed to a learner licence, by a particular date would constitute an additional or determinative condition for their eligibility. The subsequent letter dated 27.02.2026, issued after completion of the written examination and announcement of the result, was therefore required to be examined with particular caution.

8. The respondents cannot be permitted to cure an alleged ambiguity in the original advertisement by retrospectively imposing a condition which has the effect of disqualifying candidates who had already been permitted to participate in the recruitment process. If the advertisement was ambiguous as to whether a learner licence satisfied the requirement, the ambiguity could not, after the candidates had acted upon the advertisement and completed the selection process, be resolved retrospectively against those candidates. Any such course would amount, in substance, to changing the rules of the game after the game had been played.

9. We are also mindful that Respondent No.4, STS, is merely a testing agency and acted upon the directions of the School Education & Literacy Department. Therefore, no independent culpability can be attributed to STS merely for implementing the departmental instructions. The real issue, however,

concerns the legality and competence of the decision taken by the concerned department to retrospectively exclude the Petitioners. An administrative authority, even while correcting an error or acting upon legal advice, remains bound by the original terms of the advertisement and the constitutional requirements of fairness and non-arbitrariness.

10. The subsequent direction dated 27.02.2026 is particularly significant because it was issued after the written examination had been conducted and the original result had already been announced. The respondents have not demonstrated from the record that the original advertisement expressly stipulated that only a permanent motorcycle driving licence, valid on the closing date, would be acceptable, nor have they established any statutory rule or lawful recruitment condition authorizing them to introduce such an additional requirement after completion of the examination. In the absence of such material, the subsequent exclusion of the Petitioners cannot be sustained merely on the basis of an administrative clarification issued at a later stage.

11. The doctrine of legitimate expectation is also attracted in the circumstances. Once the Petitioners were permitted to participate after scrutiny of their applications, were issued admit cards and were subsequently declared successful, they had a legitimate expectation that their candidature would be considered in accordance with the criteria under which they had been allowed to compete. Although such expectation does not, by itself, confer an indefeasible right to appointment, the respondents were nevertheless required to act fairly and consistently and could not defeat that expectation through a retrospective change in the eligibility standard without lawful justification.

12. It is equally important to clarify that selection or inclusion in a provisional/final result does not, by itself, create an absolute right to appointment. Nevertheless, the absence of an indefeasible right to appointment does not authorize the recruiting authority to act arbitrarily or retrospectively alter the eligibility criteria. The Petitioners are, at the very least, entitled to have their candidature considered according to the lawful criteria applicable when the recruitment process was undertaken.

13. The impugned action also has constitutional implications. Article 4 requires that every person be dealt with in accordance with law; Article 18 protects the right to enter upon a lawful profession or occupation subject to law; and Article 25 guarantees equality before law and equal protection of law. A recruitment process must therefore remain transparent, predictable and non-discriminatory. Candidates similarly situated cannot be subjected to a new

eligibility standard after completion of the selection process unless such action has clear authority of law and is demonstrably justified.

14. Consequently, we are of the considered view that the revised provisional result dated 07.03.2026 and the consequential revised final result dated 13.03.2026, to the extent that the Petitioners have been excluded solely based on the subsequently introduced/reinterpreted requirement concerning possession of a permanent motorcycle driving licence, cannot be sustained. The respondents were not competent to retrospectively alter the eligibility framework to the prejudice of candidates who had already been permitted to compete under the originally notified conditions.

15. Accordingly, the impugned revised results, insofar as they exclude the Petitioners on the aforesaid ground, are set aside. The respondents are directed to reconsider and restore the candidature of the Petitioners and determine their merit strictly in accordance with the eligibility criteria contained in the original advertisement. The original result dated 26.07.2025 shall be restored to the extent necessary for such reconsideration. The respondents shall thereafter proceed with the recruitment process strictly in accordance with law and the originally advertised criteria.

16. It is, however, clarified that this order shall not be construed as conferring upon the Petitioners an automatic or vested right to appointment. Their appointment shall remain subject to their position in the merit list, availability of posts, verification of their documents and fulfilment of all other lawful conditions which were part of the original recruitment process. Any condition not forming part of the original advertisement or otherwise having lawful statutory basis shall not subsequently be employed to their prejudice.

17. The petition is accordingly allowed in the above terms, with no order as to costs.

JUDGE

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