

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-5222 / 2026

(Muhammad Faizan Gul Vs. Province of Sindh & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 28.08.2026.

Mr. Muhammad Arif Shaikh, Advocate for Petitioner.

Mr. Ali Safdar Deepar, Assistant Advocate General Sindh.

Dr. Aftab Mallah, Director SBTA (Respondent No. 2).

Adnan-ul-Karim Memon, J. Petitioner Muhammad Faizan Gul has filed this Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan seeking the following reliefs: -

“a) *in Restrain the respondents and any other else under them from taking any harsh/adverse step/action continuation/pursuant to the impugned Letter dated 14-07-2026 as well as earlier letter dated 22-06-2026 whereby blood bank activities were directed to be suspended, against the petitioner/Sahara Blood Bank and/or any of its staff, member, employee in any manner whatsoever, and suspend/set aside aforesaid impugned Letter dated 14-07-2026 (Annexure-P) as well as earlier letter dated 22-06-2026 by declaring them illegal, malafide, coram-non-judice, bad in law, in excess of jurisdiction. The respondent No.2/SBTA may also be directed to decide the application for renewal of licence positively, which was already submitted on 03-04-2026.*

2. The petitioner’s case, in brief, is that he is the founder and administrator of Sahara Blood Bank, established in 2012 and duly registered with the Sindh Blood Transfusion Authority (SBTA). The facility obtained annual licences continuously up to 2025, while its renewal application for 2026-207 was submitted on 03.04.2026 and remained pending. Thereafter, SBTA conducted repeated inspections and issued warnings pointing out certain observations, to which the petitioner submitted replies and explanations. On 14.07.2026, following another joint inspection by SBTA and the Sindh Healthcare Commission, the SBTA issued the impugned letter directing closure of the blood bank without affording the petitioner an opportunity of hearing.

3. The petitioner’s counsel contends that only three earlier observations were repeated while eleven new observations were introduced without notice or opportunity to respond, rendering the decision arbitrary, unreasonable and mala fide. He maintains that the facility is equipped with modern machinery, operates through qualified staff, and provides blood, including free donations, to needy patients. He further asserts that under Section 12(2) of the Sindh Safe Blood Transfusion Act, 2017, SBTA could have issued a provisional licence where non-compliance was not critical. According to the petitioner’s counsel, the respondents failed to exercise their powers reasonably, fairly and justly as required by Section 24-A of the General Clauses Act, 1897, and violated his

constitutional right to be dealt with in accordance with law under Article 4 of the Constitution. He, therefore, seeks suspension/set-aside of the impugned closure order and the earlier suspension direction, protection against adverse action, and a direction to SBTA to decide his pending licence-renewal application.

4. The learned AAG assisted by the officer of/Respondent No.2, Sindh Blood Transfusion Authority, submits that the petitioner is the founder/administrator of Sahara Blood Bank, which has been registered with SBTA and licensed from time to time. However, renewal of the licence is subject to continued compliance with the Sindh Safe Blood Transfusion Act, 2017, applicable rules, standards and SOPs, and previous renewals do not confer any vested right to continuation of the licence. The petitioner submitted an application for renewal on 03.04.2026, pursuant to which SBTA conducted inspections on 23.04.2026 and 16.06.2026, identifying several deficiencies and issuing warnings, including a warning with suspension of activities. It is added that despite the petitioner's replies, the deficiencies were not found to have been satisfactorily rectified. AAG further states that a joint inspection with the Sindh Healthcare Commission was conducted on 14.07.2026, during which further non-compliance was observed, resulting in directions for cessation of blood banking activities. He pointed out that so far as the allegation that the petitioner was denied an opportunity of hearing or that the action was motivated by mala fide is denied, as the stakeholders had repeatedly been directed to appear before the Authority along with the pathologist. According to SBTA, the facility nevertheless continued blood banking activities despite the suspension/closure directions, demonstrating further non-compliance. AAG maintains that the action was taken strictly in discharge of its statutory duty and in the larger interest of public health and safety, particularly in view of the risks associated with transfusion-transmitted infections such as HIV, HBV, HCV, syphilis and malaria. It denies that the deficiencies were merely minor irregularities and states that renovation, installation of equipment, or provision of free blood cannot by themselves establish compliance with the prescribed standards. He submitted that during inspection, deficiencies relating to cleanliness, donor, processing and storage areas and infection-prevention requirements were noted. AAG also states that 17 blood bags lacking relevant records were confiscated, of which two were found reactive for transfusion-transmitted infections upon cross-checking. AAG therefore asserts that SBTA is legally empowered to inspect, monitor, suspend or close a blood establishment where prescribed requirements are not fulfilled and reserves the right to decline renewal or revoke the licence. However, he denies the allegations of ulterior motive, arbitrariness and violation of constitutional rights, maintaining that the impugned action was lawful, reasonable and necessary to protect donors, patients and the general public. He prayed to dismiss the petition on the aforesaid analogy.

5. We have heard the arguments advanced by learned counsel for the petitioner as well as the learned AAG assisted by the officer of the Sindh Blood Transfusion Authority and perused the record with their assistance.

6. It appears that the controversy essentially concerns the legality of the action taken by SBTA directing suspension/closure of Sahara Blood Bank and the petitioner's claim for renewal of its licence.

7. The legal position of the case is that the Sindh Safe Blood Transfusion Act, 2017 empowered the Sindh Blood Transfusion Authority to regulate, inspect and control blood establishments. Under Section 4(2)(iv), the Authority may conduct inspections to ensure compliance with the Act, rules, regulations and prescribed standards. Section 11 specifically authorizes the Authority to inspect any blood establishment and, where illegal blood banking or irregularities are found, to seal the establishment if it is not operating in accordance with the law. Further, under Section 12(1), no blood establishment may receive or supply blood unless it is registered and holds a valid licence. In case of violation by a licensee, Section 4(2)(i) empowers the Authority to suspend or revoke the licence where any condition of the licence or provision of the Act, rules or regulations has been infringed. More specifically, Section 15(9) empowers the Authority, upon being satisfied that a blood establishment has contravened the Act, to issue an adverse findings report, place the establishment on probation, order cessation of its operations, seize unsafe blood or blood products, cancel its licence, and temporarily or permanently debar its re-licencing. Thus, where inspection establishes violations of the Act, licence conditions or prescribed standards, the Authority possesses statutory authority to take regulatory action, including cessation of the blood bank's operations and cancellation or suspension of its licence. Such action, however, must be based upon established violations and exercised in accordance with the Act, applicable rules/regulations, and the principles of lawful and fair administrative action.

8. However, in the present case, the impugned letter shows that the SBTA, pursuant to its earlier warning letter dated 22.06.2026 and subsequent letter dated 14.07.2026, to the petitioner, a joint inspection team of SBTA and the Sindh Health Care Commission visited the petitioner Sahara Blood Bank, District East, Karachi on 18.07.2026. However, during the inspection, the blood bank was found operational despite the cessation order earlier issued. The team observed several deficiencies, including absence of inventory records for blood bags, quality-control and pathologist visit records, inadequate temperature monitoring, improper segregation of blood bank and laboratory areas, poor labelling of collection cells, missing records of transfusion-transmitted infection reactive donors, an incorrectly labelled PPE sticker, unavailable invoice and staff vaccination records, and a non-functional Blood Bank Management Information

System, with activities being conducted manually. It was consequently observed that the previously identified deficiencies had not been rectified. In view of the potential risk to public safety, SBTA and the Sindh Health Care Commission decided to close the blood bank vide impugned letter and directed its representatives to approach SBTA and SHCC for further course of action.

9. However, it appears that The Sindh Safe Blood Transfusion Act, 2017, does not expressly provide a statutory appeal against an order of inspection, cessation of operations, suspension or cancellation of licence. Consequently, an aggrieved licensee may first place before the Authority the relevant material demonstrating compliance or rectification of the deficiencies and seek reconsideration of the adverse action. Where the impugned action is alleged to have been taken without lawful authority, in excess of jurisdiction, without proper factual foundation, in violation of the Act, rules or regulations, or in disregard of the principles of fair administrative action, the licensee may invoke the appropriate remedy as provided under the law and under enabling rules. Nevertheless, where the Authority has conducted a lawful inspection, identified specific violations, acted within the powers conferred by the Act and passed a reasoned order for cessation, suspension or cancellation of the licence, such regulatory action would ordinarily be entitled to deference, particularly in view of the specialized statutory function of the Authority concerning public health and safe blood transfusion. The remedy available to the licensee, therefore, is not an unrestricted right to continue operating the blood bank, but a right to challenge the legality, jurisdiction, factual basis and procedural propriety of the adverse regulatory action and, where the deficiencies are curable, to seek restoration or renewal of the licence upon demonstrating compliance with the statutory requirements.

10. There is no dispute that the petitioner's establishment has been registered with SBTA and had obtained licences in previous years; however, such previous licencing does not create an indefeasible or vested right to renewal of the licence for subsequent periods. Under the statutory scheme, the continued operation of a blood establishment is conditional upon its compliance with the prescribed requirements, standards and safety protocols. Section 12(1) of the Sindh Safe Blood Transfusion Act, 2017 expressly prohibits a blood establishment from receiving or supplying blood unless it is registered with the Authority and holds a valid licence, while Section 11 empowers the Authority to inspect a blood establishment and seal it where irregularities are found and it is not functioning in accordance with the Act. Section 12(2), on the other hand, contemplates issuance of a provisional licence where the non-compliance is not critical, which necessarily means that the question whether a deficiency is minor and capable of

rectification or is sufficiently serious to justify cessation of operations falls within the regulatory assessment of the competent Authority.

11. In the present case, the record, as narrated by the respondents, does not disclose a solitary or isolated deficiency. Rather, inspections were conducted on 23.04.2026 and 16.06.2026, warnings were issued, the petitioner was afforded opportunities to explain and rectify the deficiencies, and thereafter a further joint inspection with the Sindh Healthcare Commission was conducted on 14.07.2026. The respondents maintain that several deficiencies continued and that, notwithstanding the earlier directions, the blood bank continued its activities. More significantly, the respondents have alleged deficiencies relating to cleanliness, donor and processing areas, storage arrangements, infection-prevention measures and documentation, besides the confiscation of 17 blood bags, two of which were allegedly found reactive for transfusion-transmitted infections upon cross-checking. If these assertions are in black and white, from the inspection record, they cannot reasonably be characterized as mere technical or insignificant irregularities.

12. The regulatory object of the legislation is not merely administrative compliance but protection of human life from unsafe blood and transfusion-transmitted diseases. The Authority itself is constituted as a regulatory body for the collection, testing, processing, storage, distribution and transfusion of blood, with the object of protecting health and preventing transfusion-transmissible diseases.

13. The petitioner's reliance upon the fact that the blood bank has remained functional since 2012, has previously obtained licences, possesses modern equipment, employs qualified staff and provides free blood to needy patients, although relevant from a humanitarian perspective, cannot override mandatory statutory safety requirements.

14. A blood bank performs a function directly affecting the life and health of donors and recipients; therefore, charitable services or past compliance cannot furnish a justification for permitting continued operation where the competent regulatory authority has found substantive safety deficiencies.

15. Equally, this Court cannot substitute its own technical assessment for that of the specialized statutory authority in matters requiring professional evaluation of blood-screening, storage, processing, infection control and transfusion safety, unless the impugned action is shown to be without jurisdiction, based on no material, actuated by mala fide, or manifestly arbitrary.

16. The petitioner's contention that eleven observations were newly introduced during the inspection dated 14.07.2026, and that no separate opportunity was afforded to respond to each such observation, does require

consideration from the standpoint of procedural fairness. Nevertheless, the principle of audi alteram partem cannot be applied mechanically so as to compel a regulatory authority to permit the continued operation of a facility dealing with human blood where immediate risks to public health are reasonably perceived. Where the statutory authority, upon repeated inspections, forms a bona fide opinion that continued operation poses a risk to donors or recipients, an interim protective measure may be justified by the doctrine of necessity and the overriding public interest, subject, however, to the requirement that the affected establishment be given an effective opportunity to place its case before the competent authority at the earliest possible stage. The petitioner's assertion that he was wholly denied an opportunity is also disputed by the respondents, who state that the stakeholders were repeatedly directed to appear before the Authority along with the pathologist. Thus, at this stage, the allegation of complete denial of hearing cannot safely be accepted as an undisputed fact.

17. Likewise, reliance upon Section 24-A of the General Clauses Act, 1897 and Article 4 of the Constitution does not mean that every adverse administrative decision becomes unlawful merely because the affected person disagrees with it. The requirement of lawful, fair and reasonable exercise of statutory power remains fully applicable; however, reasonableness must be assessed in the context of the statutory purpose.

18. The SBTA is specifically charged with regulating blood establishments and enforcing safety standards. The exercise of such power, when founded upon inspection reports and continuing deficiencies, cannot be termed mala fide merely because it adversely affects the petitioner's business or livelihood. Mala fide must be established through cogent material and cannot be inferred merely from the severity of the regulatory action.

19. However, it is made clear that the SBTA cannot claim an unfettered or unreviewable power to close a blood establishment. The power under Section 11 has to be exercised within the confines of the Act, while the availability of a provisional licence under Section 12(2) indicates that the legislature itself contemplated a distinction between critical and rectifiable non-compliance. Therefore, SBTA is under obligation through its inspection record, that the deficiencies relied upon were sufficiently serious to justify suspension/closure rather than merely directing rectification or granting a provisional licence. The Authority must also distinguish between deficiencies that directly affect the safety of blood and those which are purely administrative or capable of immediate correction. The statutory power cannot be converted into an arbitrary power of closure, subject to exceptions provided under the law.

20. In such circumstances, this court cannot determine merely by comparing the commercial or operational inconvenience suffered by the petitioner with the

consequences of closure. The right to conduct his establishment and the fundamental public interest in ensuring that blood supplied to patients is safe are requirements of law and petitioner has to fulfill. The latter carries substantially greater weight because an unsafe transfusion may cause irreversible injury or death, whereas temporary suspension of operations, if ultimately found unjustified upon scrutiny by the competent authority, is capable of being compensated or remedied in accordance with law.

21. Viewed cumulatively, *prima facie*, the material presently placed before this Court does not establish a clear case of want of jurisdiction under Article 199 of the Constitution, patent illegality or *mala fide* on the part of SBTA.

22. On the contrary, the respondents have shown a regulatory sequence comprising repeated inspections, identification of deficiencies, warnings, opportunities to respond/rectify and a subsequent joint inspection, followed by protective directions.

23. The petitioner's challenge essentially requires this Court to re-appraise technical findings relating to blood-bank safety, which exercise is ordinarily better undertaken by the specialized statutory Authority. However, at the same time, the petitioner cannot be left without an effective statutory determination of his pending renewal application. The fact that the renewal application was submitted on 03.04.2026 does not by itself entitle the petitioner to continue operating during the pendency of the application, particularly where the statutory requirement of a valid licence remains mandatory.

24. Accordingly, in the larger public interest and having regard to the paramount object of the legislation, prevention of transfusion-transmitted diseases and protection of human life, the prayer for an unconditional restraint against SBTA from implementing the impugned directions does not appear justified at this stage. However, the Authority need not be permitted to keep the petitioner's renewal application pending indefinitely. SBTA needs to examine and decide the renewal application strictly in accordance with the applicable statutory provisions, inspection findings and prescribed standards, after providing the petitioner a meaningful opportunity to submit his explanation and demonstrate rectification of any deficiencies which are capable of being rectified within three week. If the Authority finds that any deficiency is non-critical and capable of rectification, it shall consider the statutory option of provisional licencing in accordance with Section 12(2); conversely, if the deficiencies are found to be critical and capable of endangering donors or recipients, the Authority would be justified in maintaining suspension/closure until lawful compliance is demonstrated.

25. Before parting with this order, we may observe that The Sindh Blood Transfusion Authority, being the specialized statutory body constituted under the

Sindh Safe Blood Transfusion Act, 2017, should exercise its regulatory jurisdiction throughout the Province in a continuous, systematic, transparent and uniform manner, rather than adopting a purely reactive approach upon receipt of complaints or at the time of licence renewal. The Authority should maintain an updated record of all registered and licenced blood establishments, their licence status and previous inspection history, and should devise a province-wide, risk-based inspection programme covering all districts, with more frequent and unannounced inspections of establishments having a history of violations, complaints or serious adverse events. Each inspection should be conducted through uniform and objective checklists based upon the Act, rules, regulations, prescribed standards and SOPs, and the resulting report should clearly identify and distinguish critical safety violations from major or minor and rectifiable deficiencies. Where a violation is established, SBTA should take prompt and proportionate action within the powers conferred by the Act, including warning, rectification, probation, provisional licencing, suspension, sealing, cessation of operations, seizure of unsafe blood or cancellation of licence, as the circumstances may warrant. Where non-compliance is non-critical and capable of rectification, the Authority should consider the statutory option of provisional licencing under Section 12(2), whereas immediate protective action may be taken where continued operation poses a genuine risk to donors or recipients, subject to an effective opportunity of representation at the earliest practicable stage. Every adverse decision should be supported by a speaking and reasoned order identifying the violations, material relied upon, explanation furnished and reasons for the particular regulatory measure adopted. The pendency of a renewal application should not be treated as authorization to operate without a valid licence, and follow-up inspections should be conducted promptly after expiry of any rectification period so that establishments do not remain indefinitely subject to repeated warnings. SBTA should also ensure proper traceability and preservation of records, immediate regulatory response to serious adverse events or reactions, and maintenance of a district-wise compliance database. Such a uniform and risk-based inspection and enforcement mechanism would enable the Authority to discharge its statutory duty effectively, protect donors and recipients from unsafe blood and transfusion-transmitted diseases, and at the same time ensure that its regulatory powers are exercised lawfully, fairly, proportionately and without arbitrariness. Any professional negligence shall be treated as gross criminal negligence, and strict action shall be taken against all responsible officials and private persons. Therefore, utmost care must be observed in all such matters. Besides, all donated blood shall be screened promptly by the concerned registered Blood Banks through professionals and appropriately at the time of donation, in accordance with the prescribed standards and procedures.

26. Thus, we are of the considered view that the competent authority of the respondents is required to decide the pending application filed by the petitioner by a reasoned and speaking order, in accordance with law, after affording the petitioner an effective opportunity of hearing and considering his replies, the inspection reports and the material produced by him regarding rectification. The aforesaid exercise shall be undertaken within three weeks.

27. This petition stands disposed of in the above terms. Let a copy of this order be communicated to the competent authority of SBTA and all registered Blood Banks in Sindh for compliance in time.

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