

In the Federal Constitutional Court of Pakistan
(Appellate Jurisdiction)

Present:

Justice Aamer Farooq
Justice Syed Arshad Hussain Shah

F.C.P.L.A. No.566 of 2026

(On appeal from order of High Court of Sindh at Karachi
dated 29.1.2026 passed in C.P. No.D-1773/2024)

Ghulam Hussain Khawaja

Petitioner

Versus

Province of Sindh & others

Respondents

For the petitioner:

Mr. Tariq Aziz, ASC

Respondents:

N.R.

Date of hearing:

15.4.2026

Judgement

Syed Arshad Hussain Shah, J: The instant petition calls into question the order dated 29.01.2026, passed by the High Court of Sindh at Karachi in C.P. No. D-1773 of 2024, whereby the order, show cause notice and warrant, all dated 02.04.2024, issued by the Registrar, Cooperative Societies, Sindh (hereinafter referred to as the "Registrar"), were set aside. Furthermore, Mr. Justice (Retd.) Nadeem Azhar Siddiqui was appointed as Administrator/Election Officer of Makli Co-operative Housing Society Limited (hereinafter referred to as the "Society"), with directions to hold election of the Society within three months and thereafter hand over its management to the elected body.

2. The controversy emanated when, during the election process of the society, the Registrar passed an order under Section 81(1)(vi) of the Sindh Cooperative Societies Act, 2020, appointing Mr. Fayaz Ali Channa and Mr. Kundan as Chairman and Honorary Secretary, respectively, to take over the affairs of the Society, manage its day-to-day functions, conduct elections, and hand over charge to the duly elected managing committee. Simultaneously, a show cause notice under Section 59(1) of the Sindh Cooperative Societies Act,

2020, was issued to the Secretary of the Society without providing opportunity of hearing as required under Section 59(1), *ibid*. The Registrar also issued a warrant for holding an inquiry into the affairs of the Society.

3. The above-mentioned actions of the Registrar were challenged by the present petitioner, along with other members of the managing committee, before the High Court of Sindh under Article 199 of the Constitution of the Islamic Republic of Pakistan (hereinafter referred to as the “Constitution”). The High Court disposed of the petition with the consent of the parties, declared order, show cause notice and warrant issued by the Registrar to be *void ab initio*; appointed an Administrator/Election Officer with the direction to conduct elections within a period of three months from the date of receipt of the order and hand over its management to the elected body.

4. Heard the learned counsel for the petitioner at some length, who vehemently contended that once the High Court had declared the actions of the Registrar to be *void ab initio*, it lacked jurisdiction to appoint an Administrator/Election Officer, particularly, when no such relief had been sought by the petitioners. It was argued that such appointment amounts to the exercise of *suo motu* jurisdiction, which is not bestowed upon the High Court by the Constitution. In support of his contentions, learned counsel placed reliance upon the cases reported as Federal Government Housing Foundation & others versus Malik Ghulam Mustafa & others (2021 SCMR 201), Faqir Muhammad versus Khursheed Bibi & others (2024 SCMR 107), Abdullah Jumani & others versus Province of Sindh & others (2024 SCMR 1258), Federal Government Housing Foundation versus Ednan Syed & others (PLD 2025 SCMR 11) and a judgement of this Court dated 7.1.2026 passed in F.C.P.L.A. No.14 of 2025. He further contended that the appointment of an Administrator/ Election Officer from outside the officers of the Cooperative Department is without lawful authority, *void ab initio* and liable to be set aside.

5. We have given our anxious consideration to the submissions made by learned counsel for the petitioner and have perused the record with his able assistance.

6. The grievance of the petitioner, in a nutshell is that the appointment of an Administrator/Election Officer, particularly one appointed from outside the officers of the Cooperative Department, amounts to exercise of *suo moto* jurisdiction, which does not vest in the High Court. In this regard, it would suffice to observe that the law laid down in the cases cited at the Bar is not applicable to the instant one as it has its own facts. Needless to add, a five member bench of the Supreme Court, in the case of Wattan Party PLD 2011 S.C. 997, with reference to powers of the High Courts under Article 199 (1) (c), held that *the Court can make an order giving such direction to any person or authority including any government exercising power or performing any function and, in or, in relation to, in any territory within its jurisdiction as may be appropriate for enforcement of Fundamental Rights conferred by Chapter 1 of Part II of the Constitution*. As far as, appointment of an Administrator other than from the officers of the Cooperative Department is concerned, it may be mentioned that contents of this petition itself reveal that a similar dispute relating to the Society had arisen in the year 2020, when the original jurisdiction of the High Court was invoked by way of institution of two suits, which culminated in setting aside the orders of the Registrar and appointment of the Nazir of the High Court as Election Officer to conduct elections and hand over the management of the Society to the elected body. This fact demonstrates that the appointment of an Administrator/Election Officer from outside the Cooperative Department is not alien to the established practice. It further negates the contention of the learned counsel that the impugned order is out of mandate of the High Court and amounts to exercise of *suo moto* jurisdiction.

7. It is noted with great concern, that the impugned order was passed with the consent of the parties, which was obligatory upon them and

any deviation therefrom is tantamount to contempt of Court. It is a well settled principle that *consent order cannot be challenged and is binding on the parties*. 1997 SCMR 1301 & 1984 SCMR 730 refer. In this regard, when confronted, learned counsel for the petitioner failed to furnish any plausible justification. Further, he was unable to point out any illegality, infirmity or jurisdictional defect in the impugned order warranting interference by this Court. It may not be out of place to mention here that the only issue in this *lis* is holding of free and fair elections of the Society, which has been adequately ensured by the High Court by appointing a retired Judge of the High Court for the purpose. The timeframe stipulated in the order of the High Court is about to culminate. Any interference with the impugned order at this stage is unwarranted and likely to prejudice the basic/fundamental rights of the members of the society. It is observed with utter dismay, that the petitioner instead of complying with the order of the High Court and taking part in the election of the Society has resorted to delaying tactics. Tendency of challenging the consent orders has always been *condemned and disapproved* by the superior judiciary because *the parties are precluded to challenge the same as undertaking given by a party in the Court of law has to be given sanctity because on one hand there is a legal estoppel and on the other it is immoral and unethical*. 2011 SCMR 1361 refers.

8. In view of the foregoing, we find no reason to interfere in the impugned order, particularly, it being a consent order. Consequently, leave to appeal is refused, and the instant petition stands dismissed.

Judge

Judge

Islamabad the
15th April 2026
Approved for reporting.
Riaz