



MANDVIWALLA & ZAFAR
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CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Monday, 19 October 2026

Upload Window: 9 to 19 October 2026 (Sundays 11 and 18 October excluded)

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Coverage and exclusions: this issue covers the nine working days from 9 to 19 October 2026. Fourteen judgments have been curated from a pool comprising twelve Supreme Court uploads, nine Federal Constitutional Court uploads, some forty-five Lahore High Court judgments approved for reporting, thirteen Sindh High Court judgments carrying citations, and nil from the Islamabad High Court. (a) Two procedural improvements are worth recording. First, the Federal Constitutional Court's judgment listing now carries an express 'Approved for Reporting' column, which removes the need to open each file to establish its status; of the nine uploads in this window, seven are marked Yes and two — F.C.P.L.A. No. 464 of 2026 and C.P.L.A. No. 1901 of 2022, both of 14 October — are marked No and have accordingly been excluded. Second, one of the two image-only Supreme Court scans carried forward from the briefing of 8 October has been resolved: C.P.L.A. No. 4211 of 2023 (Khurram Rasheed v. Ch. Haider Zaman) has been silently re-uploaded with a clean, natively generated text layer and carries the endorsement 'Approved for Reporting'. It is a declaration and ownership matter in which the petition was converted into an appeal and allowed, the trial court's judgment being restored; it is available on request. The

second scan, C.P.L.A. No. 1157 of 2021 (Barkat Khan v. Banaras Khan, declaration and inheritance, eleven pages), remains image-only. Its final page has been rendered and read: the petition was dismissed and leave refused, the Court holding that a DNA comparison which is not a direct comparison with the alleged parent cannot by itself conclusively determine parentage, and that no misreading or non-reading had been demonstrated. No reporting endorsement is discernible on that page, and the judgment is therefore retained in the carry-forward queue pending clarification of its status. (b) Supreme Court items approved for reporting but not curated are J.P. No. 424 of 2021 (Muhammad Azhar), J.P. No. 495 of 2021 (Ghulam Shabbir), J.P. No. 565 of 2022 (Salman), Crl. R.P. No. 73 of 2025 (Muhammad Kamran, review in a death-sentence appeal), C.A. No. 253-L of 2010 (Abdul Raheem through LRs), C.P.L.A. No. 1748 of 2023 (Ghulam Mujtaba through LRs) and C.R.P. Nos. 521 to 541 and 764 to 782 of 2024 (SIP Mukhtiyar Ali Thebo and connected, a very large batch of review petitions); each is available on request. Crl. M. Appeal No. 38 of 2025 (Jamshaid Ahmed Dasti) carries no reporting endorsement and is a short order. C.A. No. 1693 of 2021, uploaded on 8 October after the scan for that day's issue had closed, has been swept into this window and is digested below. (c) Federal Constitutional Court items marked approved for reporting but not curated are C.P.L.A. No. 824 of 2022 (Tanveer Ahmed Tahir, supersession in promotion), C.P.L.A. No. 302-P of 2023 and C.P.L.A. No. 544-P of 2025 (both Khyber Pakhtunkhwa police service matters) and F.Crl.A. No. 23 of 2026 (Bushra Imran), the last being a short order on an appeal barred by sixty-one days. (d) The Lahore High Court list is again too long to reproduce. Among the judgments approved for reporting but not curated are 2026 LHC 7305 (the inquest report as a mandatory preliminary document), 7295, 7274, 7266, 7252, 7238, 7220, 7198, 7193, 7184, 7170, 7164, 7158 (section 24 of the Punjab Pre-emption Act), 7148, 7140, 7109, 7072, 7066, 7057, 7051 (the power to requisition information under the Income Tax Ordinance), 7034, 7020 (a wife suing through an attorney), 7010, 6982, 6970, 6964, 6956, 6937, 6925, 6917 (the scope of the Punjab Enforcement and Regulation Act, 2024), 6899, 6892 (section 21 of the PEEDA Act not retrospective), 6869, 6860, 6850, 6841, 6834, 6823, 6813, 6807, and 2025 LHC 8750; together with four 8 October stragglers, 2026 LHC 6798, 6788, 6779 and 6774. All are available on request. (e) Sindh High Court judgments carrying citations but not curated include 2026 SHC KHI 1930 and 1931, 2026 SHC LAR 1920, 1922, 1940 and 1941, 2026 SHC HYD 1934, and 2026 SHC MPK 1937, 1939, 1942 and 1943. (f) The Islamabad High Court contributes nil for the seventh consecutive month. Its public listing of reported judgments remains unchanged since the single office-objection order of 30 September 2026 noted in the last issue, and shows no substantive reported judgment later than 18 March 2026. (g) The long-standing portal defect in Const. P. No. 875 of 2025 (2026 SHC KHI 1583) and the listing mismatch affecting Spl. Sales Tax Ref. A. No. 135 of 2025 (Coca-Cola) both remain unresolved.

Federal Constitutional Court of Pakistan

3 judgments

RIGHT OF ACCESS TO INFORMATION ACT, 2017 SS. 2(IX), 6, 7, 18(3); RIGHT OF ACCESS TO INFORMATION RULES, 2020 R. 9(3) — TWO COMMISSIONERS CONSTITUTE A VALID QUORUM; BUT A COMPANY REGISTERED UNDER THE COMPANIES ACT, 2017 AND REGULATED BY THE SECP DOES NOT FALL SQUARELY WITHIN THE DEFINITION OF 'PUBLIC BODY'

M/s Pakistan Microfinance Investment Company Limited v. Pakistan Information Commission and another

PETITION CONVERTED INTO APPEAL AND ALLOWED; THE JUDGMENT OF THE ISLAMABAD HIGH COURT AND THE ORDER OF THE PAKISTAN INFORMATION COMMISSION BOTH SET ASIDE; APPROVED FOR REPORTING

F.C.P.L.A. No. 694 of 2026 (converted into appeal), Federal Constitutional Court of Pakistan (against the judgment dated 28.01.2026 of the Islamabad High Court in W.P. No. 3638 of 2024) · Bench: Syed Hasan Azhar Rizvi and Aamer Farooq, JJ · Decided: 08.07.2026 · Uploaded: 14.10.2026

FACTS

The second respondent joined the petitioner company in December 2016 and resigned in August 2023. On 24 May 2024 he sought access to records concerning the payment and repayment of the petitioner's Chief Executive Officer. Receiving no satisfaction, he appealed by email on 29 May 2024 to the Pakistan Information Commission. The petitioner contested the appeal, objecting to maintainability and contending that the documents sought did not fall within the permissible categories under the Right of Access to Information Act, 2017. The Commission allowed the appeal on 10 September 2024 and directed the petitioner to provide the information within ten days. The petitioner's writ petition was dismissed by the Islamabad High Court on 28 January 2026. Before this Court the petitioner argued that the Commission was not validly constituted under section 18(3), the order having been passed by two Members where the Act provides for three and contains no quorum provision and no saving clause; that Rule 9 of the Rules of 2020, which fixes the quorum at two, is ultra vires the Act; and that the petitioner, a company registered under the Companies Act, 2017 and regulated by the Securities and Exchange Commission of Pakistan, is not a 'Public Body' within section 2(ix). The High Court had concluded that the petitioner was a Public Body because 49% of its shareholding or contribution came from the Poverty Elevation Board; the second respondent contended before this Court that it was engaged in public functions within section 2(ix)(g).

LEGAL ISSUE

Whether an order of the Pakistan Information Commission passed by two Commissioners is invalid for want of quorum, the Act providing for three and prescribing no quorum; and whether a company registered under the Companies Act, 2017 and regulated by the SECP is a 'Public Body' within section 2(ix) of the Act so as to attract the Commission's jurisdiction.

HOLDING

The appeal was allowed. On the first objection, counsel was correct that the Act prescribes no quorum and no modalities for holding meetings; but the Commission was validly functioning when the decision was handed down, the Chief Information Commissioner and two Members holding office with no vacancy, and Rule 9(3) of the Rules of 2020 provides that two Commissioners shall constitute the quorum, the decision of the Chief Commissioner prevailing in case of disagreement between two. The Rules, framed for the purpose of giving effect to the Act, were not found to be in any manner in excess of it, since nowhere does the Act stipulate that all three Commissioners must be in attendance to carry out the Commission's functions; no legal or jurisdictional infirmity in the composition was therefore made out. On the second objection the Court disagreed with the reasoning of the High Court and criticised the Commission for dealing with the question in a cursory manner without giving reasons. The conclusion that the petitioner was a Public Body because 49% of its shareholding or contribution came from the Poverty Elevation Board was not accepted, nor was the contention that it is engaged in public functions. A company registered under the Companies Act, 2017 and regulated by the SECP does not fall squarely within section 2(ix). The records sought, concerning payment and repayment of the Chief Executive Officer, did not fall within the ambit of section 6 and could not form the basis for approaching the Commission.

LEGAL SIGNIFICANCE

The first significant appellate treatment of the Right of Access to Information Act, 2017 to come through this listing, and it cuts both ways. For information seekers, the quorum point is now settled favourably: an order of two Commissioners is good, Rule 9(3) is not ultra vires, and the absence of a quorum provision in the Act does not invalidate the Commission's proceedings. For bodies resisting disclosure, the more consequential holding is on 'Public Body': incorporation under the Companies Act with SECP regulation is not displaced by substantial public shareholding — here 49% — nor by a general assertion of public functions, and the Court has signalled that a reasoned finding is required rather than an assumption. Two practical points follow. First, the Commission must now give reasons when holding a respondent to be a Public Body; a cursory conclusion will not survive. Second, the nature of the record sought matters independently: documents concerning a chief executive's remuneration were held not to fall within section 6, so even a Public Body would not necessarily have been obliged to produce them. The judgment leaves open how section 2(ix)(g) applies to entities more deeply embedded in public functions, and that question should be expected to return.

LEGAL PROPOSITIONS (VERBATIM)

— *The argument of learned counsel for the petitioner is correct that no quorum is provided in the Act and not the modalities of holding of meeting*

— *With regret, it is noted that respondent No.1 dealt with this issue in a cursory manner without providing reasons for holding that the petitioner is a 'Public Body'.*

— *Even, stance taken by respondent No.2 before us, is that it is engaged in public functions, hence the petitioner is a 'Public Body', is without substance.*

LEGAL PRINCIPLES EXPOUNDED

Rules fixing the quorum of the Information Commission at two Commissioners are not in excess of the Act, which nowhere requires all three to be in attendance.

Source: *We do not find that the Rules framed are, in any manner, in excess of the Act inasmuch as nowhere in the Act, it is stipulated that all three Commissioners/Members of respondent No.1, shall be in attendance to carry out the functions of the Commission, hence we do not see any legal or jurisdictional infirmity viz-a-viz composition of the Commission while handing down the impugned order.*

Authority: *Section 18(3), Right of Access to Information Act, 2017; Rule 9(3), Right of Access to Information Rules, 2020*

A company registered under the Companies Act, 2017 and regulated by the Securities and Exchange Commission of Pakistan does not fall squarely within the definition of 'Public Body'.

Source: *We feel that petitioner registered under the Companies Act, 2017 and being regulated by Securities and Exchange Commission of Pakistan, does not fall squarely within the domain of section 2(ix) of the Act.*

Authority: *Section 2(ix), Right of Access to Information Act, 2017*

Records concerning the payment and repayment of a chief executive do not fall within the ambit of section 6 and cannot form the basis for approaching the Commission.

Source: *The record of petitioner sought by respondent No.2 was with respect to various documents regarding payment and repayment of Chief Executive Officer of the petitioner; these arguments do not, in any way, fall within the ambit of section 6 of the Act and cannot form basis for approaching respondent No.1.*

Authority: *Sections 6 and 7, Right of Access to Information Act, 2017*

OPERATIVE ORDER

For the above reasons, instant petition is converted into appeal and is allowed; consequently, impugned judgment dated 28.01.2026 as well as order passed by respondent No.1 dated 10.09.2024 are set aside.

■ [View Full Judgment](#)

CONSTITUTION OF PAKISTAN, 1973 ARTS. 25, 34; POLICY OF 2023 CL. 3.12(IV) — A DISCRETION TO GRANT AN EXCEPTIONAL EXTENSION MUST BE EXERCISED UPON PROPER CONSIDERATION OF THE RELEVANT CIRCUMSTANCES; CIRCUMSTANCES PARTICULARLY AFFECTING WOMEN DESERVE DUE CONSIDERATION WITHIN THE FLEXIBILITY AVAILABLE UNDER THE GOVERNING FRAMEWORK

Mst. Shehla Khaliq v. President, International Islamic University and another

LEAVE GRANTED, PETITION CONVERTED INTO APPEAL AND ALLOWED; JUDGMENT OF THE HIGH COURT AND THE REGRET LETTER BOTH SET ASIDE; MATTER REMITTED FOR FRESH CONSIDERATION WITHIN THIRTY DAYS; APPROVED FOR REPORTING

F.C.P.L.A. No. 59 of 2025 (converted into appeal), Federal Constitutional Court of Pakistan (against the judgment dated 04.08.2025 of the Islamabad High Court in W.P. No. 1594 of 2025) · Bench: Syed Hasan Azhar Rizvi and Muhammad Karim Khan Agha, JJ · Decided: 01.10.2026 · Uploaded: 12.10.2026

FACTS

The petitioner enrolled in the PhD (Law) programme of the International Islamic University, Islamabad in Fall 2015 and completed the prescribed coursework in Spring 2016, the result being declared on 19.07.2016. The Rules required the comprehensive examination to be conducted within ninety days of completion of the coursework; hers was conducted on 26 and 30.12.2016 and its result notified on 26.07.2017. Her synopsis then passed through the Board of Studies and the Board of Faculty with amendments suggested and a supervisor assigned, and was finally approved by the Board of Advanced Studies and Research on 07.02.2019, some eight months after the Board of Faculty meeting. Following her marriage in November 2017 the petitioner relocated with her husband to District Lakki Marwat, where he was posted as a Medical Officer. She sought an extension of time for submission of her thesis, asserting in her representation that the thesis had already been completed and that a copy, together with the plagiarism report and her supervisor's completion letter, had been submitted with the request. By a regret letter dated 06.05.2025 the University rejected the representation. The High Court dismissed her writ petition principally on the footing that the controversy involved an academic decision governed by non-statutory Rules.

LEGAL ISSUE

Whether the petitioner's request for an exceptional extension of time to submit her PhD thesis was considered in accordance with the framework specifically governing such a request, in particular clause 3.12(iv) of the Policy of 2023; and whether requiring the competent authority to undertake that exercise amounts to substituting judicial opinion for academic judgment.

HOLDING

The appeal was allowed and the matter remitted. The regret letter proceeded essentially on the expiry of the prescribed period and did not reflect any meaningful assessment of the cumulative effect of the circumstances relied upon, nor disclose any determination whether, individually or cumulatively, they fell within clause 3.12(iv) of the Policy of 2023; the Court was therefore unable to hold that the discretion contemplated by that provision had been exercised upon a proper consideration of the relevant factors. The petitioner was not seeking an indefinite extension in which to commence or complete research: whether the thesis and accompanying material satisfy the applicable academic and regulatory requirements is a matter for the competent authorities, but their asserted existence was relevant to the consideration of the request. The High Court's approach left the principal grievance unanswered, and requiring the competent authority to undertake the exercise neither entails judicial assessment of academic merit nor substitutes judicial for academic judgment; it merely requires the authority entrusted with the discretion to exercise it within the applicable framework. There is also a constitutional dimension: Article 25 guarantees equality while expressly permitting special provision for the protection of women, and equality does not invariably require identical treatment. A woman pursuing higher education may have to reconcile academic progression with circumstances arising from marriage, relocation consequent upon matrimonial obligations, pregnancy or health concerns, and the responsibilities of motherhood and childcare; where such circumstances materially impede continuity of education they deserve due consideration within the flexibility otherwise available, particularly where the accommodation sought is permissible under the governing framework and affects no accrued or competing right of a third party.

LEGAL SIGNIFICANCE

A judgment of wider reach than its academic setting suggests, and one that will be cited in service, professional-licensing and regulatory contexts as readily as in education. Its first contribution is administrative: where a policy confers a discretion to grant an exceptional extension, a refusal which recites only the expiry of the prescribed period is not an exercise of that discretion at all, and the Court will say so without trespassing on the merits. The second is the answer to the standard defence that the decision is academic and governed by non-statutory rules — that characterisation does not relieve the authority of the obligation to consider a request within the framework which specifically governs it. The third, and most quotable, is the constitutional passage: the Court's statement that reasonable accommodation of circumstances particularly affecting women is not a departure from equality but a means of removing disadvantages which would otherwise impede their educational advancement and effective representation in professional and public spheres, grounded in Articles 25 and 34. Note the two express limits the Court attaches — the accommodation must be permissible under the governing framework, and it must not adversely affect any accrued or competing right of a third party — which is how the principle should be pleaded.

LEGAL PROPOSITIONS (VERBATIM)

— *This constitutional commitment recognises that equality does not invariably require identical treatment and that, where circumstances so warrant, due regard may legitimately be had to disadvantages or responsibilities particularly affecting women.*

— *The reasonable accommodation in such cases is not a departure from the principle of equality; rather, it may serve to remove disadvantages which, if left unaddressed, could impede the educational advancement of women and, in turn, their effective representation in professional and public spheres.*

— *It merely requires the authority entrusted with the discretion to exercise it within the framework applicable to it.*

— *With respect, this approach left the petitioner's principal grievance unanswered: whether her request for an exceptional extension had been considered in accordance with the framework specifically governing such a request.*

LEGAL PRINCIPLES EXPOUNDED

A refusal resting on the expiry of the prescribed period, without assessment of the circumstances relied upon or any determination whether they fall within the governing provision, is not a proper exercise of the discretion conferred.

Source: *The regret letter dated 06.05.2025 proceeds essentially on the expiry of the prescribed period and does not reflect any meaningful assessment of the cumulative effect of the circumstances relied upon by the petitioner.*

Authority: *Clause 3.12(iv), Policy of 2023*

Requiring the competent authority to consider a request within its governing framework does not entail judicial assessment of academic merit or substitution of judicial for academic judgment.

Source: *Requiring the competent authority to undertake that exercise neither entails an assessment by the Court of the academic merit of the petitioner's thesis nor amounts to substitution of judicial opinion for academic judgment.*

Authority: *Article 199, Constitution of Pakistan, 1973*

Where circumstances arising from marriage, relocation, pregnancy, health or childcare materially impede continuity of a woman's education, they deserve due consideration within the flexibility available under the applicable framework.

Source: *Where such circumstances materially impede the continuity of her education, they deserve due consideration within the flexibility otherwise available under the applicable legal or policy framework.*

Authority: *Articles 25 and 34, Constitution of Pakistan, 1973*

OPERATIVE ORDER

Consequently, leave to appeal is granted and the petition is converted into an appeal, which is allowed. The impugned judgment dated 26.05.2025 of the High Court is set aside. As a natural corollary, the regret letter dated 06.05.2025 issued by IIUI, whereby the petitioner's request for extension was declined, is also set aside. The writ petition filed by the petitioner before the High Court shall, accordingly, stand disposed of in the terms indicated

hereinabove. There shall be no order as to costs.

■ View Full Judgment

FUNDAMENTAL RULE 54-A; CIVIL SERVICE REGULATIONS 351 AND 470 — DISCIPLINARY PROCEEDINGS PENDING WHEN A CIVIL SERVANT ATTAINS SUPERANNUATION STAND ABATED; THEIR MERE PENDENCY CANNOT THEREAFTER BE RELIED UPON TO WITHHOLD OR DEFER PENSIONARY BENEFITS

Pakistan Telecommunication Company Limited v. Bheru Lal and another

LEAVE REFUSED AND PETITION DISMISSED; PTCL DIRECTED TO FINALISE THE RESPONDENT'S RETIREMENT FROM THE DATE OF SUPERANNUATION AND PAY HIS PENSIONARY AND OTHER DUES WITHIN THREE MONTHS; COPY DIRECTED TO BE SENT TO THE MANAGING DIRECTOR FOR COMPLIANCE; APPROVED FOR REPORTING

F.C.P.L.A. No. 781 of 2026, Federal Constitutional Court of Pakistan (against the order dated 17.02.2026 of the High Court of Sindh, Karachi in C.P. No. D-4039 of 2023) · Bench: Syed Hasan Azhar Rizvi and Muhammad Karim Khan Agha, JJ · Decided: 14.10.2026 · Uploaded: 14.10.2026

FACTS

The respondent was appointed Assistant Divisional Engineer (BPS-17) on an ad hoc basis in the Telegraph and Telephone Department on 19.11.1989, his service being regularised with effect from the date of initial appointment by order dated 01.03.1994. He was transferred to the Pakistan Telecommunication Corporation under the Act of 1991 and subsequently to PTCL upon its establishment under the Act of 1996. A charge-sheet and statement of allegations were issued on 02.06.2009, an inquiry followed, a show cause notice issued on 31.12.2009, and by inter office memorandum dated 19.05.2010 the penalty of removal from service was imposed; his departmental appeal was rejected. He challenged the removal before the High Court of Sindh, and by short order dated 27.09.2019 with reasons dated 11.10.2019 a Division Bench set aside the order. A de novo inquiry followed but no final order was passed in it before the respondent attained the age of superannuation. PTCL relied upon the pendency of that inquiry, and upon CSR 351 and CSR 470 together with *Government of NWFP v. Muhammad Said Khan* (PLD 1973 SC 514) and *Federation of Pakistan v. Shah Mohammad* (2021 SCMR 1249), to defer finalisation of his retirement and withhold his dues. By the order under challenge the High Court directed PTCL to finalise his retirement and settle his dues in full.

LEGAL ISSUE

Whether disciplinary proceedings still pending when an employee attains the age of superannuation may be relied upon to withhold or defer his pensionary and retirement benefits, and whether CSR 351 or CSR 470 authorises that course where no final order was passed in those proceedings.

HOLDING

Leave was refused. The legal consequence of the respondent attaining superannuation while the disciplinary proceedings were still pending is clear: those proceedings stood abated and he became entitled to retire with full pensionary benefits, and their pendency could not thereafter be relied upon to withhold or defer his benefits. Had PTCL moved diligently and expeditiously in completing the inquiry the position might not have arisen, but it failed to do so. CSR 351 did not assist: the respondent had neither been convicted of a serious crime nor found guilty of grave misconduct in any duly constituted proceedings, and what PTCL relied upon was the pendency of a de novo inquiry which did not culminate in a lawful final order and thereafter stood abated. CSR 470 did not assist either: no exercise of the power conferred by that provision was shown, nothing on the record indicated that the competent pension sanctioning authority had determined that the service was not thoroughly satisfactory and, after following the prescribed procedure, made any reduction; an inquiry report in proceedings which remained inconclusive does not amount to an exercise of that distinct power. There can be no dispute that pension is a right acquired after satisfactory service for the prescribed minimum period and cannot be reduced or refused arbitrarily except to the extent and in the manner provided by the relevant rules, nor that future good conduct is an implied condition of every grant of pension; but these principles did not advance PTCL's case.

LEGAL SIGNIFICANCE

Directly useful wherever an employer has allowed disciplinary proceedings to drift past an employee's retirement date — a pattern common enough in large public-sector employers. The rule is clear and employer-unfriendly: proceedings pending at superannuation abate, and their pendency alone is no warrant for withholding pension. Equally important is the Court's careful separation of two powers which are often conflated: CSR 351 permits withholding or withdrawal where the pensioner has been convicted of a serious crime or found guilty of grave misconduct in duly constituted proceedings, while CSR 470 permits reduction by the pension sanctioning authority where service has not been thoroughly satisfactory — and an inconclusive inquiry report is an exercise of neither. An employer seeking to rely on either must show the relevant determination was actually made, by the competent authority, following the prescribed procedure including notice. The passage recording that courts will examine denial of pension with considerable care, pension being the fruits of a lifetime's work and the means to live with dignity in retirement rather than depend upon the charity of others, is the one to quote. Note the direction that a copy go to the Managing Director for compliance, and the three-month timeframe.

LEGAL PROPOSITIONS (VERBATIM)

— *Had PTCL moved diligently and expeditiously in completing the inquiry, this position may not have arisen, but it failed to do so.*

— *An inquiry report rendered in disciplinary proceedings which remained inconclusive does not, by itself, amount to an exercise of that distinct power.*

— *There can be no dispute with the principles underlying these provisions or with those stated in the judgments relied upon by PTCL.*

LEGAL PRINCIPLES EXPOUNDED

Disciplinary proceedings pending when an employee attains superannuation stand abated, and he becomes entitled to retire with full pensionary benefits.

Source: *Those proceedings stood abated and the respondent became entitled to retire with full pensionary benefits. Their pendency could not thereafter be relied upon by PTCL to withhold or defer his pensionary and retirement benefits.*

Authority: *Fundamental Rule 54-A; Muhammad Akhtar's case (2007 PLC (C.S.) 400)*

Pension is a right acquired after satisfactory service for the prescribed minimum period and cannot be reduced or refused arbitrarily except to the extent and in the manner provided by the relevant rules.

Source: *Pension is a right acquired after putting in satisfactory service for the prescribed minimum period and cannot be reduced or refused arbitrarily except to the extent and in the manner provided by the relevant rules.*

Authority: *Civil Service Regulations 351 and 470; Government of NWFP v. Muhammad Said Khan (PLD 1973 SC 514)*

Courts will examine the denial of pension with considerable care, pension representing the fruits of a lifetime's work and the means to live with dignity in retirement.

Source: *Employers must be mindful that, in cases involving denial of pension, the courts will examine the matter with considerable care, as pension invariably represents the fruits of a lifetime's work and the means to live with dignity in retirement, rather than being compelled to depend upon the charity of others for want of financial resources.*

Authority: *Civil Service Regulation 470; Federation of Pakistan v. Shah Mohammad (2021 SCMR 1249)*

OPERATIVE ORDER

For the reasons given above, leave is refused and the petition is dismissed. The petitioner shall finalize the respondent's retirement from the date of his superannuation and pay to him his pensionary benefits, back benefits and other dues and entitlements, within three months from the date of announcement of this judgment. ... A copy of this judgment shall be sent to the Managing Director/Chief Executive Officer of PTCL for compliance.

■ [View Full Judgment](#)

PUNJAB PRE-EMPTION ACT, 1991 SS. 13, 32 — WHERE NOTICES OF TALB-I-ISHHAD ARE DENIED, THE ATTESTING WITNESSES MUST BE PRODUCED TO PROVE EXECUTION AND DISPATCH; A PRE-EMPTOR CANNOT POSTPONE THE COMMENCEMENT OF THE PERIOD BY ASSERTING A LATER DATE OF KNOWLEDGE WITHOUT PROVING THE STATUTORY CONSEQUENCE DOES NOT OPERATE

Sarfraz Ahmad and others v. Ishtiaq Ahmad and others

APPEAL DISMISSED; JUDGMENT OF THE HIGH COURT DISMISSING THE PRE-EMPTION SUIT UPHELD; APPROVED FOR REPORTING

Civil Appeal No. 288-L of 2015, Supreme Court of Pakistan (against the judgment dated 30.04.2015 of the Lahore High Court, Lahore in C.R. No. 1899 of 2005) · Bench: Jamal Khan Mandokhail, Shahid Waheed and Irfan Saadat Khan, JJ (judgment by Shahid Waheed, J) · Decided: 13.10.2026 · Uploaded: 14.10.2026

FACTS

The appellants' predecessor, Muhammad Din, instituted a suit for possession through pre-emption of land measuring 30 kanals and 2 marlas in the revenue estate of Chanderke Rajputan. The land had been sold to the respondents by mutation No. 590 dated 05.12.1995 for Rs. 195,000. Claiming a superior right, the plaintiff asserted that he had performed the requisite Talbs. One defendant admitted the claim; the remaining contesting respondents denied fulfilment of the statutory requirements. The trial Court decreed the suit on 02.03.2002 and the First Appellate Court upheld the decree, but the High Court set it aside in revision. On Talb-i-Ishhad, the plaintiff relied on notices produced as Exh. P-4, P-5 and P-6, attested by two witnesses, Ghulam Nabi and Muhammad Arif; once the notices were denied, only Muhammad Arif (P.W.3) was produced, the other attesting witness being withheld without explanation and without any attempt to establish his unavailability or to produce secondary evidence. On Talb-i-Muwathibat, the plaintiff claimed to have made the first Talab on 10.01.1996 at 10:00 a.m. — more than four weeks after the sale mutation — pleading that the competent authority had failed to issue the public notice contemplated by section 32, but leading no evidence of that non-compliance. At the outset the Court discharged a notice issued to the appellants for failure to furnish complete addresses of two respondents, counsel for the contesting respondents having sought permission to represent them as their interests were common.

LEGAL ISSUE

Whether the appellants' predecessor established, through legally sufficient evidence, the performance of the Talbs prescribed by the Punjab Pre-emption Act, 1991 — in particular, whether Talb-i-Ishhad was proved where the notices were denied and only one of the two attesting witnesses was produced, and whether Talb-i-Muwathibat made more than four weeks after the sale mutation was timely.

HOLDING

The appeal was dismissed. On Talb-i-Ishhad, once the respondents denied the notices the burden lay upon the plaintiffs to establish their execution and dispatch in accordance with law by producing the attesting witnesses; the evidentiary significance of that requirement having been emphasised in Muhammad Abaidullah v. Ijaz Ahmed (2015 SCMR 394), the production of only one attesting witness, without explanation for withholding the other and without establishing his unavailability or offering admissible secondary evidence, left the burden undischarged. Notices specifically denied could not be treated as proved merely because they were placed on the record. On Talb-i-Muwathibat, a delay of more than four weeks required examination in the light of the statutory scheme in section 32 governing the time at which knowledge of the sale is attributed to a pre-emptor. A pleading is not proof: it was incumbent on the plaintiff to establish the factual basis for his assertion that the statutory consequence could not operate against him, and the record disclosed no satisfactory evidence of the alleged non-compliance. The essence of Talb-i-Muwathibat is the prompt and unequivocal manifestation of intention upon acquiring legally relevant knowledge; it is not an empty formality to be performed at any time convenient to the claimant. The cumulative effect was that neither Talb was established, and these are not dispensable procedural formalities but essential statutory conditions, failure to prove which is fatal irrespective of the merits of the asserted superior right.

LEGAL SIGNIFICANCE

The third substantial pre-emption judgment in a month, and the one that completes the picture alongside Muhammad Niaz v. Raja Khush Dil Abbasi reported in the briefing of 21 September and the Lahore High Court's Larger Bench ruling on the Majlis requirement digested elsewhere in this issue. Read together, these decisions leave a pre-emptor very little room. Two points are of immediate practical use. First, on Talb-i-Ishhad, a notice that is denied must be proved by its attesting witnesses — all of them; producing one and withholding the other without explanation is fatal, and the omission cannot be repaired by the notice's mere presence on the file. Second, the Court repeats, in sharper terms than before, that a pleading of non-issuance of the section 32 public notice is not proof of it: the pre-emptor who wishes to displace the statutory attribution of knowledge must lead evidence to that effect. The judgment's observation that a pre-emptor cannot indefinitely postpone the commencement of the period merely by asserting a later date of knowledge is the sentence to cite. The procedural passage at the outset, discharging a notice for incomplete addresses where counsel appeared for related respondents with common interests, is also a useful practical precedent.

LEGAL PROPOSITIONS (VERBATIM)

- *A pleading, however, is not proof.*
- *A pre-emptor cannot indefinitely postpone the commencement of the period for exercising his right merely by asserting a later date of knowledge.*
- *It is not an empty formality that may be performed at any time convenient to the claimant.*
- *These are not dispensable procedural formalities; they are essential statutory conditions for the exercise of the right of pre-emption.*

LEGAL PRINCIPLES EXPOUNDED

Where notices of Talb-i-Ishhad are specifically denied, the burden lies upon the pre-emptor to establish their execution and dispatch by producing the attesting witnesses.

Source: *Once the respondents-defendants denied the notices, the burden lay upon the appellants-plaintiffs to establish their execution and dispatch in accordance with law by producing the attesting witnesses.*

Authority: Section 13, Punjab Pre-emption Act, 1991; Muhammad Abaidullah v. Ijaz Ahmed (2015 SCMR 394)

Where the statute attributes knowledge of a sale upon fulfilment of the prescribed conditions, a party seeking to avoid that consequence must establish the factual and legal basis for doing so.

Source: *Where the statute attributes knowledge of a sale upon fulfilment of the prescribed conditions, a party seeking to avoid that consequence must establish the factual and legal basis for doing so.*

Authority: Section 32, Punjab Pre-emption Act, 1991; Bilal Ahmad v. Abdul Majeed (2020 SCMR 445)

The essence of Talb-i-Muwathibat is the prompt and unequivocal manifestation of an intention to pre-empt upon acquiring legally relevant knowledge of the sale.

Source: *The essence of Talb-i-Muwathibat is the prompt and unequivocal manifestation of an intention to exercise the right of pre-emption upon acquiring legally relevant knowledge of the sale.*

Authority: Section 13, Punjab Pre-emption Act, 1991

OPERATIVE ORDER

For the foregoing reasons, this appeal is dismissed. There shall be no order as to costs.

■ [View Full Judgment](#)

CONSTITUTION OF PAKISTAN, 1973 ART. 188 — AN ORDER RESTING UPON AN ERRONEOUS ASSUMPTION OF MATERIAL FACT, OR PASSED WITHOUT ADVERTING TO A PROVISION OF LAW, MAY DISCLOSE AN ERROR APPARENT ON THE FACE OF THE RECORD; THE COURT MAY REOPEN ITS JUDGMENT WHERE A MANIFEST WRONG HAS BEEN DONE

Muhammad Ramzan v. Regional Police Officer, Multan and others

ORDER UNDER REVIEW RECALLED; BOTH CIVIL PETITIONS RESTORED, CONVERTED INTO APPEALS AND DISPOSED OF WITH DIRECTIONS TO THE DEPARTMENT; APPROVED FOR REPORTING

C.R.P. No. 1226 of 2023 in C.A. No. 1590-L of 2021 and C.R.P. No. 1227 of 2023 in C.P.L.A. No. 1309-L of 2021, Supreme Court of Pakistan (review of the order dated 01.11.2023) · Bench: Muhammad Ali Mazhar, Musarrat Hilali and Shahid Bilal Hassan, JJ (judgment by Muhammad Ali Mazhar, J) · Decided: 09.06.2026 · Uploaded: 14.10.2026

FACTS

The petitioner, a police official, had challenged his dismissal order dated 15.08.2013 before the Punjab Service Tribunal. By judgment dated 15.12.2015 his appeal was allowed and he was reinstated, the department being left at liberty to conduct a de novo inquiry. That inquiry led to a fresh dismissal on 10.01.2017; his departmental representation was rejected and a further service appeal was allowed on 13.12.2018, whereupon he was reinstated by the department itself on 08.01.2019, though dismissed again on 05.10.2019. By the impugned order dated 02.04.2021 the Tribunal allowed a third service appeal and reinstated him subject to the outcome of a regular inquiry, directing the department to decide the intervening period thereafter. That order was passed applying the principle of consistency and parity, two co-accused having been proceeded against on the same allegations and reinstated by the Tribunal on 24.02.2020 with their cases remanded for regular inquiry. Both sides brought petitions to the Supreme Court, which by order dated 01.11.2023 dismissed the petitioner's petition and allowed that of the Regional Police Officer, relying upon the original dismissal order of 15.08.2013 as having been affirmed up to the Supreme Court in an earlier consolidated judgment. That earlier judgment had in fact concerned eighteen writ petitions by forty-seven individuals alleged to have obtained fraudulent transfer orders — allegations wholly different from those against the present petitioner, whose petition had merely been clubbed with that bunch.

LEGAL ISSUE

Whether the order under review disclosed an error apparent on the face of the record, the Court having proceeded upon the original dismissal order of 15.08.2013 without adverting to the fact that the petitioner had been reinstated by the department itself in implementation of a later Tribunal judgment, and without adverting to the basis of parity on which the Tribunal had acted.

HOLDING

The order under review was recalled. Mistakes or errors perpetuating illegality and injustice, if found floating on the face of the record, should be corrected without hesitation. Orders based on an erroneous assumption of material facts, or passed without adverting to a provision of law, or departing from the undisputed construction of law and the Constitution, may amount to an error apparent on the face of the record, an expression which includes misconstruction of law and misreading of the evidence on record. Where the judgment under review is found to have directed something in conflict with the Constitution or law, it is the duty of the Court to amend such error. A judgment cannot be reviewed merely because a different view could have been taken, and review does not permit the re-hearing of a decided case or the raising of grounds not urged at the original hearing; nor will a mere repetition of old and overruled arguments, a second trip over ineffectually covered ground, or minor mistakes of inconsequential import suffice. The Court may nevertheless reopen its judgment where a manifest wrong has been done and an order is necessary to do full and effective justice. Here the petitioner had been nonsuited on the basis of an earlier dismissal letter which had lost its efficacy upon his reinstatement by the department pursuant to the Tribunal's judgment, and the parity basis of the Tribunal's order had escaped attention; an error floated on the face of the record.

LEGAL SIGNIFICANCE

A compact and quotable restatement of the limits of review under Article 188, arriving in the same season as the Federal Constitutional Court's recall of a Supreme Court judgment in the Monal review reported in the briefing of 8 October. The two should be read together: both accept that finality yields where an error is

manifest, and both emphasise that the power exists to prevent injustice rather than to permit re-argument. What makes this judgment particularly useful is its two-sided formulation — the passage setting out what does amount to an error apparent (erroneous assumption of material facts, failure to advert to a provision of law, departure from settled construction, misconstruction of law, misreading of evidence) is immediately followed by what does not (a different view being possible, re-hearing, grounds not urged, repetition of overruled arguments, minor mistakes of inconsequential import). The Court's candid acknowledgment that the critical position 'was not adverted to' and that a material fact 'perhaps escaped the attention of this Court' is itself instructive on how such a petition should be framed. Note also the practical lesson: where a petition is clubbed with a bunch raising materially different allegations, counsel should take care that the distinction is placed squarely before the Court.

LEGAL PROPOSITIONS (VERBATIM)

- *The mistakes or errors perpetuating illegality and injustice if found floating on the face of the record should be corrected without any hesitation.*
- *Where the judgment under review is found to have directed the doing of something which is in conflict with the Constitution or law, then it will be the duty of the Court to amend such error.*
- *However, the Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice.*
- *Moreover, the grounds not urged or raised at the time of hearing the constitution petition cannot be allowed to be raised in the review proceedings.*

LEGAL PRINCIPLES EXPOUNDED

Orders based on an erroneous assumption of material facts, or without adverting to a provision of law, or departing from the undisputed construction of law and the Constitution, may amount to an error apparent on the face of the record.

Source: *Orders based on an erroneous assumption of material facts, or without adverting to a provision of law, or a departure from undisputed construction of law and Constitution may amount to an error apparent on the face of the record which include misconstruction of law and misreading of the evidence on record.*

Authority: Article 188, Constitution of Pakistan, 1973; *Commissioner Inland Revenue v. M/s MSC Switzerland Geneva* (2023 SCMR 1011)

The expression 'error apparent on the face of the record' cannot be defined with precision and is to be determined in each case on its own facts; a mere repetition of overruled arguments or minor mistakes of inconsequential import will not suffice.

Source: *The expression, "error apparent on the face of the record" cannot be defined with precision or exhaustiveness, and there would always remain an element of indefiniteness inherent in its very nature.*

Authority: Article 188, Constitution of Pakistan, 1973

A review petition lies only where there is an evident error establishable without elaborate argument; it does not permit the re-hearing of a decided case.

Source: *Though a judgment cannot be reviewed merely because a different view could have been taken, rather a review petition would lie only when there is an alleged error in the judgment which is evident and can be established without elaborate arguments but does not mean to allow the re-hearing of a decided case*

Authority: Article 188, Constitution of Pakistan, 1973

OPERATIVE ORDER

In our considered view, there is an error floating on the face of the record and the review petitioner was nonsuited on the basis of an earlier dismissal letter from service which lost its efficacy on reinstatement order passed by the department pursuant to the Tribunal Judgment, therefore, the order under review is hereby recalled. Consequently, Civil Petition No.1309-L/2021 and Civil Petition No.1590-L/2021 both are restored to their original numbers and positions and after hearing the parties on merits, both the civil petitions are converted into appeal and disposed of with the directions to the department to proceed in accordance with the directions contained in paragraph No. 6 of impugned judgment of the learned Tribunal dated 02.04.2021 and pass appropriate order.

■ [View Full Judgment](#)

SALES TAX ACT, 1990 S. 36(3) AND PROVISIO — WHERE AN ORDER-IN-ORIGINAL IS SET ASIDE AND THE MATTER REMANDED FOR FRESH ADJUDICATION, THE PERIOD PRESCRIBED BY SECTION 36(3) IS TO BE RECKONED AFRESH FROM THE DATE OF REMAND; IT DOES NOT CEASE TO APPLY

Commissioner Inland Revenue, Legal Zone, Corporate Tax Office, Lahore v. M/s Makerwal Collieries Limited, Lahore

APPEAL DISMISSED; THE ORDER-IN-ORIGINAL HELD TIME-BARRED AND THE CONCURRENT CONCLUSIONS OF THE TRIBUNAL AND THE HIGH COURT MAINTAINED; APPROVED FOR REPORTING

Civil Appeal No. 1693 of 2021, Supreme Court of Pakistan (on appeal against the order dated 26.01.2021 of the Lahore High Court, Lahore in S.T.R. No. 4925 of 2021) · Bench: Yahya Afridi, CJ, Muhammad Shafi Siddiqui and Miangul Hassan Aurangzeb, JJ (order by Muhammad Shafi Siddiqui, J) · Decided: 18.08.2026 · Uploaded: 08.10.2026 (swept into this window)

FACTS

The respondent was proceeded against under the Sales Tax Act, 1990. An order-in-original was initially passed; on appeal the Appellate Tribunal Inland Revenue by order dated 10.03.2001 set it aside and remanded the matter to the adjudicating authority, directing it to consider the evidence referred to by the respondent, determine its liability in respect of royalty and excise duty included in the total sale price, and re-decide in accordance with law. Pursuant to the remand, Order-in-Original No. 303 of 2005 was passed on 31.12.2005 by the Additional Collector Sales Tax and Federal Excise (Adjudication), Lahore, imposing sales tax with default surcharge and penalties — some four years, nine months and twenty-one days after the remand. No extension of time for adjudication was sought or obtained. The respondent challenged the order before the Collector (Appeals) on the ground, among others, that it had been made beyond the period prescribed by section 36(3); the Department contended that the order was not time-barred because the Tribunal had remanded the matter without finally determining the issue of alleged undervaluation. The Collector (Appeals) upheld the adjudication on merits, but the Tribunal accepted the objection of limitation, holding that the show-cause notice stood reactivated upon remand but that the statutory period could not remain open indefinitely. The Lahore High Court declined to interfere.

LEGAL ISSUE

Whether, after an order-in-original has been set aside in appellate proceedings and the matter remanded for re-adjudication, the fresh order must still be passed within the limitation prescribed by section 36(3) of the Sales Tax Act, 1990 reckoned from the original show-cause notice, or whether the order of remand gives rise to a fresh period — or, as the Department contended, to no period at all.

HOLDING

The appeal was dismissed. The mandatory character of the limitation in section 36(3), its computation with reference to the issuance of the show-cause notice, and the invalidity of an order made beyond the permissible period stand conclusively settled by *Super Asia* (2017 SCMR 1427), affirmed by a five-member Larger Bench in *WAK Limited* (2025 SCMR 1280), which emphasised that the use of 'shall', coupled with the words 'in no case' in relation to the permissible extension, prescribes a definite and unbreachable boundary. The question here was the effect of remand. Remand is not a mere procedural direction for transmission of the record but an exercise of appellate jurisdiction by which the earlier adjudication is displaced and the matter restored for further adjudication; it is a corrective and exceptional jurisdiction to be exercised with circumspection. Where the earlier order has been set aside, the authority must undertake the adjudicatory exercise anew, and the statutory period cannot continue to run against an adjudication which no longer subsists. The limitation in section 36(3) regulates the exercise of the adjudicating power and must remain attached to the fresh exercise of that power following remand; it is therefore to be reckoned afresh from the date of remand, subject to any lawful extension or exclusion. The contention that no limitation applies after remand could not be accepted, as it would render the statutory limitation nugatory in every case and leave the authority without temporal constraint. On the facts, the fresh order ought to have been made within forty-five days of the remand order of 10.03.2001.

LEGAL SIGNIFICANCE

A judgment that closes a gap the Department had been exploiting with some success, and one every adviser handling remanded adjudications should note. Its rule is easily applied: the clock does not stop on remand, nor does it continue to run from the original show-cause notice; it starts again from the date of remand, and the authority has the same period it originally had — the Court adding, pointedly, that it cannot conceive of a situation where the time frame after remand would exceed the time originally available. The reasoning is also valuable beyond the Sales Tax Act, because it rests on a general characterisation of remand as displacing the earlier adjudication and restoring the matter for a fresh exercise of power, with the limitation attaching to that fresh exercise. Practitioners should note the Court's collection of recent authority discouraging unnecessary remands — Tariq Mansoor (2026 SCMR 807), Muhammad Zubair (PLJ 2026 SC 495) and Shah Nawaz Khan (2015 SCMR 945) — which supplies useful material when resisting a remand sought merely to cure a departmental omission. The practical consequence for the revenue is stark: a remand now carries its own deadline, and an adjudication completed years later will not survive.

LEGAL PROPOSITIONS (VERBATIM)

- *A remand, therefore, is not a mere procedural direction for transmission of the record to the forum below.*
- *The statutory period cannot, in such circumstances, continue to run against an adjudication which no longer subsists.*
- *We cannot conceive a situation where the time frame after remand for adjudication would exceed the time originally available to the officer.*
- *it gives rise to a fresh period within which the renewed adjudicatory exercise must be completed in accordance with section 36(3).*

LEGAL PRINCIPLES EXPOUNDED

Where an order-in-original is set aside and the matter remanded, the period prescribed by section 36(3) is to be reckoned afresh from the date of remand, subject to any lawful extension or exclusion.

Source: Accordingly, where an order-in-original is set aside and the matter is remanded for fresh adjudication, the period prescribed under section 36(3) is to be reckoned afresh from the date of remand, subject to any extension or exclusion lawfully available under the statute.

Authority: Section 36(3), Sales Tax Act, 1990; *Collector of Sales Tax v. Super Asia Mohammad Din & Sons* (2017 SCMR 1427); *WAK Limited v. Collector Central Excise and Sales Tax* (2025 SCMR 1280)

Remand is a corrective and exceptional jurisdiction, not an automatic judicial reflex, to be exercised with circumspection and restraint.

Source: this Court reiterated that remand is not an automatic judicial reflex and that its purpose is corrective rather than dilatory.

Authority: *The Secretary/Chairman Railways v. Tariq Mansoor* (2026 SCMR 807); *Muhammad Zubair v. Mst. Raheela Gul* (PLJ 2026 SC 495); *Messrs Shah Nawaz Khan and Sons v. Government of N.-W.F.P.* (2015 SCMR 945)

A construction under which no limitation applies after remand would render the statutory limitation nugatory and leave the adjudicating authority without temporal constraint.

Source: Such an interpretation would render the statutory limitation nugatory in every case where an order is set aside and the matter is remanded, leaving the adjudicating authority without any temporal constraint upon the exercise of its renewed jurisdiction.

Authority: Section 36(3), Sales Tax Act, 1990

OPERATIVE ORDER

Once the period is reckoned from 10.03.2001, the date of remand, the order-in-original dated 31.12.2005 was plainly beyond the period prescribed by section 36(3). There is nothing on record to establish any lawful extension or exclusion which could save the order from the bar of limitation. The learned Appellate Tribunal, therefore, was justified in holding the order-in-original to be time-barred. The High Court, while answering the questions of law against the Department, reached the same conclusion, and no legal infirmity has been demonstrated in that determination. The appeal is accordingly dismissed.

■ [View Full Judgment](#)

SINDH RENTED PREMISES ORDINANCE, 1979 SS. 10, 15(2)(II), 15(2)(IV), 16(1) — SECTIONS 10 AND 15(2)(II) ADDRESS DIFFERENT SITUATIONS; IMPAIRMENT UNDER SECTION 15(2)(IV) NEED NOT BE ACTUAL, AND EXPERT EVIDENCE IS NOT AN INVARIABLE REQUIREMENT

M/s Universal Express (Pvt.) Limited and others v. Karachi Properties Investment Company (Pvt.) Limited and others

FIVE PETITIONS DISMISSED AND LEAVE REFUSED; ORDERS OF EJECTMENT MAINTAINED; APPROVED FOR REPORTING

Civil Petitions No. 397-K and 399-K to 402-K of 2026, Supreme Court of Pakistan (against the judgments dated 19.06.2026 of the High Court of Sindh, Karachi in Constitution Petitions No. S-282, S-283, S-299, S-300 and S-301 of 2025) · Bench: Yahya Afridi, CJ and Muhammad Shafi Siddiqui, J (judgment by Muhammad Shafi Siddiqui, J) · Decided: 09.10.2026 · Uploaded: 10.10.2026

FACTS

The landlord sought eviction of five tenants on the grounds of rent default, maintenance-charge default and impairment of the material value and utility of the building. The Rent Controller allowed all five ejectment applications on 08.10.2024. The Appellate Court on 24.02.2025 maintained the findings of rent default and impairment but reversed the maintenance-default finding, and in the Universal Express case additionally reversed the subletting finding, which the High Court later restored. By judgments dated 19.06.2026 the High Court affirmed the findings of rent default and material impairment in all five cases, dismissed the constitutional petitions and directed the tenants to vacate within forty-five days subject to deposit of rent for that period. Before the Supreme Court the tenants contended that the applications were premature because there was no agreed date for payment and the period under section 15(2)(ii) had not expired; that the rent had been enhanced without consent; that the courts had travelled beyond the pleadings by taking into account rent falling due during the pendency of the proceedings, particularly for May and June 2020, when no tentative rent order under section 16(1) had been passed; and that no architect, engineer or other expert had been examined to establish impairment. The evidence on impairment included the installation of industrial generators, drilling of holes in the structure for air-conditioning, erection of staircases without established written permission, construction and extension, and the establishment of valet parking inside the premises.

LEGAL ISSUE

Whether the tenants had committed default in payment of rent within sections 10 and 15(2)(ii) of the Ordinance; whether rent falling due during the pendency of the proceedings could be taken into account; whether the acts attributed to the tenants were likely to impair the material value or utility of the premises within section 15(2)(iv) in the absence of expert evidence; and whether the concurrent findings called for interference.

HOLDING

The petitions were dismissed and leave refused. Section 10(1) addresses the time within which rent is to be paid where no date has been fixed by mutual agreement — not later than the tenth day of the month following that for which it is due — while section 15(2)(ii) deals both with rent agreed to be paid in advance and with the situation where no such agreement is apparent, providing a period of sixty days from when it becomes due in the latter case. The two situations are entirely different, and a tenant concurrently found liable to pay in advance cannot take advantage of either timeframe. The question is not merely whether some payment was eventually made but whether the rent legally payable was paid or validly tendered within the period prescribed. On impairment, the expression 'likely to impair the material value or utility' is of significance: following *Organon Pakistan* (1999 SCMR 54), the impairment must be material and may relate to either value or utility, actual impairment is not indispensable where the act is likely to cause it, the provision is not confined to structural alterations, and examination of an architect or other expert is not an invariable requirement, the evidence of the landlord supported by the record being sufficient in an appropriate case. *Intezar Ahmed Khan* (1995 SCMR 194) establishes that material impairment must be proved and cannot be presumed from every alteration, but these cases did not rest on a bare presumption; the courts considered the nature of the alterations, the manner of installation, the absence of permission and their cumulative effect. Concurrent findings are not immune from interference where perverse or founded upon misreading, but the mere

possibility of another view does not justify it.

LEGAL SIGNIFICANCE

A useful consolidation for rent practice in Sindh, decided across five connected matters and therefore likely to be cited often. Three propositions stand out. First, the relationship between sections 10 and 15(2)(ii) is clarified: they occupy different fields, and where rent is concurrently found payable in advance a tenant cannot borrow the longer period available in the absence of such an agreement — a point frequently argued the other way. Second, the Court's framing of the default question is worth adopting: not whether payment was eventually made, but whether the rent legally payable was paid or validly tendered within the prescribed period. Third, and of greatest practical consequence, the judgment confirms that expert evidence is not a precondition to a finding of impairment under section 15(2)(iv); the landlord's evidence supported by the record may suffice, and the acts relied on need not be structural. Tenants carrying out generator installations, air-conditioning drilling, staircases or similar works without written permission should be advised accordingly. The Court's reconciliation of *Organon* with *Intezar Ahmed Khan* — impairment need not be actual, but it must be established on evidence and not presumed from every alteration — is the balance to strike in argument.

LEGAL PROPOSITIONS (VERBATIM)

- *Both situations are totally different and the petitioners cannot take advantage of the timeframe provided either under section 10 or section 15 for not paying rent in advance.*
- *The question, therefore, is not merely whether some payment was eventually made, but whether the rent legally payable was paid or validly tendered within the period prescribed by law.*
- *The argument that the absence of an architect or engineer necessarily defeats the claim of impairment cannot be accepted.*
- *We therefore find that the findings under section 15(2)(iv) of the Ordinance cannot be characterized as findings based merely upon conjecture.*

LEGAL PRINCIPLES EXPOUNDED

Impairment under section 15(2)(iv) must be material and may relate to either value or utility; actual impairment is not indispensable where the act is likely to cause it, and expert examination is not an invariable requirement.

Source: It was further held that actual impairment is not indispensable where the act is likely to cause such impairment. The Court also made it clear that the law does not confine the provision to structural alterations and that examination of an architect or other expert is not an invariable requirement; the evidence of the landlord, supported by the record, may in an appropriate case be sufficient.

Authority: Section 15(2)(iv), Sindh Rented Premises Ordinance, 1979; *Organon Pakistan (Pvt.) Ltd. v. Rafat Ali Khan* (1999 SCMR 54)

Material impairment must be established through evidence and cannot be presumed from every alteration.

Source: The principle emerging from that case is that material impairment must be established through evidence and cannot be presumed from every alteration.

Authority: *Intezar Ahmed Khan v. Mst. Khatoon Hadi* (1995 SCMR 194)

Concurrent findings are not immune from interference where perverse, based upon misreading or non-reading of material evidence, or founded upon an erroneous proposition of law; but the mere possibility of another view does not justify interference.

Source: It is settled that concurrent findings are not immune from interference where they are shown to be perverse, based upon misreading or non-reading of material evidence, or founded upon an erroneous proposition of law, but mere possibility of another view does not justify interference.

Authority: Sindh Rented Premises Ordinance, 1979; Article 185(3), Constitution of Pakistan, 1973

OPERATIVE ORDER

For the foregoing reasons, we are of the considered view that the impugned judgments of the High Court maintaining the orders of ejectment do not call for interference. Hence, the petitions are dismissed and leave to appeal is refused.

■ [View Full Judgment](#)

Lahore High Court

4 judgments

QANUN-E-SHAHADAT ORDER, 1984 ARTS. 22, 46A, 59, 73, 78A, 84, 129(G), 164 AS AMENDED IN 2023; ELECTRONIC TRANSACTIONS ORDINANCE, 2002 SS. 2(O), 2(P), 3; CODE OF CRIMINAL PROCEDURE, 1898 SS. 94, 96, 342, 365, 428, 510, 539B, 540, 561A — AFTER THE 2023 AMENDMENT ARTICLE 164 IS A PROCEDURAL PROVISION; ELECTRONIC EVIDENCE IS DOCUMENTARY, ITS ADMISSIBILITY RESTING ON THE ELECTRONIC TRANSACTIONS ORDINANCE AND ARTICLES 46A, 73 AND 78A

Raja Shahid v. The State and another

APPEAL ALLOWED; CONVICTION AND SENTENCE SET ASIDE AND THE APPELLANT ACQUITTED BY EXTENDING THE BENEFIT OF DOUBT; APPROVED FOR REPORTING

Criminal Appeal No. 27357 of 2024, Lahore High Court, Lahore (2026 LHC 7319) · Bench: Muhammad Amjad Rafiq, J · Decided: Signed 16.10.2026 (heard 09.09.2026, 22.09.2026 and 28.09.2026) · Uploaded: 17.10.2026

FACTS

The appellant was convicted and sentenced by the trial Court on 30.03.2024 in a murder case. CCTV footage of the occurrence was available. The prosecution relied on the testimony of two eyewitnesses who stated that the man in black clothes who fired the fatal shots was the appellant and that he remained at the scene to threaten them. Upon viewing the video both witnesses identified the deceased, the man talking to him, and the man shooting; both admitted that they did not themselves appear in the footage. The appellant admitted his presence at the scene but limited his role to kicking the victim, who was by then already deceased from firearm injuries inflicted by a co-accused. The Deputy Prosecutor General initially argued that the appellant had also fired at the deceased while he lay on the ground, but conceded on being confronted with the postmortem report, diagram and medical testimony that no corresponding injuries existed: the fatal shots, entering and exiting about the ears and cheek, had been inflicted while the victim was still on the motorcycle. The video contradicted the witnesses in two respects — the man in black did not linger in a threatening posture, and the person occupying the rear seat during the escape was the shorter individual in shirt and trousers rather than the primary shooter. The Court had the assistance of the Prosecutor General, a Deputy Prosecutor General as amicus curiae, and a Director of the Punjab Forensic Science Agency, and considered comparative material from England and India at length.

LEGAL ISSUE

What is the effect of the 2023 amendment to Article 164 of the Qanun-e-Shahadat Order, 1984 upon the admissibility and proof of evidence generated by modern devices; how is such evidence to be authenticated and put to witnesses and to the accused; to what extent may an appellate court cure procedural omissions in its reception; and whether a conviction may rest upon video evidence where the facial features of the assailant are not discernible.

HOLDING

The appeal was allowed. In its present form Article 164 does not directly render admissible evidence becoming available through modern devices; it now operates primarily as a procedural provision enabling the recording of evidence through modern devices and techniques, rather than as a substantive provision concerning evidentiary worth or admissibility. Following the amendment, evidence generated through modern devices is treated strictly as documentary rather than physical or real evidence, and qualifies as an electronic document whose legal recognition and admissibility are established by section 3 of the Electronic Transactions Ordinance, 2002; by virtue of Article 73 a document is not denied the status of primary evidence merely because it is in electronic form where the automated information system was in working order, which is presumed in the absence of contrary evidence, and such statements are relevant facts under Article 46A. Under Article 78A, where generation of an electronic document is denied, application of a security procedure must be proved. Video footage, being documentary evidence, must be produced through the testimony of a relevant witness, put to the relevant witnesses for explanation where necessary, and put to the accused at the appropriate stage including under section 342 Cr.P.C.; the guidelines in *Ishtiaq Ahmad Mirza* (PLD 2019 SC 675) are to be followed where authenticity is disputed. Where the trial Court fails to follow the requisite procedure the appellate Court may cure the omission by summoning witnesses and the accused for

additional evidence, though mere clarification of facts already depicted in admitted footage is not additional evidence under section 428. On the facts, although the Court may draw comparisons between the video and the accused by trier-of-fact comparison under Article 84 and *Parish v. R* [2021] EWCA Crim 1693, and the physical stature of the individual who kicked the fallen victim bore a noticeable resemblance to the appellant, where facial identification is obscured it is legally unsafe to convict on a partial admission or general physical similarity absent an expert facial comparison report or robust corroboration.

LEGAL SIGNIFICANCE

The most important evidence judgment to appear in this digest for some time, and essential reading for anyone who litigates with CCTV, mobile recordings or other electronic material. Its central insight is one that has been widely missed since 2023: the amendment stripped Article 164 of its substantive admissibility function and left it as a mechanism for recording evidence remotely, so that counsel who still cite Article 164 as the gateway for video evidence are citing the wrong provision. The correct route is now section 3 of the Electronic Transactions Ordinance read with Articles 46A, 73 and 78A — with the valuable consequence that an electronic document is primary evidence where the system was in working order, a matter presumed unless displaced. The judgment then sets out, in sequence, the practical steps: production through a witness, putting the footage to witnesses for explanation, putting it to the accused under section 342, and compliance with *Ishtiaq Ahmad Mirza* where authenticity is disputed. Its treatment of appellate cure is equally practical, distinguishing genuine additional evidence under section 428 from mere clarification of admitted material, and identifying sections 94, 96 and 540 as the route where footage existed but was never collected. Finally, the adoption of trier-of-fact comparison, subject to the clear limit that obscured facial features cannot sustain a conviction without expert comparison or corroboration, gives both sides a workable rule.

LEGAL PROPOSITIONS (VERBATIM)

- *Accordingly, Article 164, in its present form, does not directly render admissible evidence that becomes available through modern devices and techniques.*
- *evidence generated through modern devices and techniques is treated strictly as documentary evidence rather than physical or real evidence.*
- *Accordingly, video footage, being documentary evidence, shall be produced before the Court through the testimony of a relevant witness.*
- *However, mere clarification of facts depicted in video footage already admitted into evidence does not constitute additional evidence under Section 428 Cr.P.C.; rather, it is an inquiry intended to clarify the facts observed and facilitate an informed adjudication.*

LEGAL PRINCIPLES EXPOUNDED

Where it is alleged that an electronic document has been generated through an information system and the allegation is denied, the application of a security procedure must be proved.

Source: Under Article 78A of the *Qanun-e-Shahadat Order 1984*, where it is alleged that an electronic document has been generated, wholly or partly, by a person through the use of an information system, and such allegation is denied, the application of a security procedure to the electronic document must be proved.

Authority: Article 78A, *Qanun-e-Shahadat Order, 1984*; *Ishtiaq Ahmad Mirza v. Federation of Pakistan* (PLD 2019 SC 675)

Where video footage was available but neither collected by the police nor brought on record, the appellate Court may summon the electronic document and relevant witnesses and record the evidence itself or direct that it be recorded.

Source: Conversely, where video footage was available but neither collected by the police nor brought on record, the appellate Court may, in exercise of its powers under Sections 428, 94 and 540 Cr.P.C., summon the electronic document and relevant witnesses, record the evidence itself, or direct a Magistrate or Court of Session to record it and transmit the same for appellate determination in accordance with law.

Authority: Sections 94, 96, 428 and 540, *Code of Criminal Procedure, 1898*

Where facial identification is obscured or unidentifiable, it is legally unsafe to convict upon a partial admission or general physical similarity absent an expert facial comparison report or robust corroborative circumstantial evidence.

Source: Established principles of criminal jurisprudence dictate that where facial identification is obscured or unidentifiable, it is legally unsafe to base a conviction solely upon a partial admission or a general physical similarity, in the absence of a formal expert facial recognition/comparison report or robust corroborative circumstantial evidence.

Authority: Article 84, Qanun-e-Shahadat Order, 1984; Parish and Anor v. R [2021] EWCA Crim 1693; Muhammad Ramzan v. The State (2025 SCMR 1742)

OPERATIVE ORDER

Consequently, the titled appeal is allowed, the conviction and sentence of the accused/appellant recorded by the learned trial Court vide judgment dated 30.03.2024 are set aside and he is acquitted of the charge by extending him the benefit of doubt. Raja Shahid (accused/appellant), confined in Jail, shall be released forthwith if not required in any other case. The case property, if any, shall be disposed of in accordance with law and the record of the trial court be sent back immediately.

■ View Full Judgment

CONSTITUTION OF PAKISTAN, 1973 ART. 199(5) — A HIGH COURT, COMPRISING ITS JUDGES, COMMITTEES OF ITS JUDGES AND THE CHIEF JUSTICE, REPRESENTS AN INTEGRATED WHOLE AND IS NOT AMENABLE TO JUDICIAL REVIEW; CLAUSE (5) IS A DEFINITION CLAUSE ADDRESSING WHO IS AMENABLE, NOT AN OUSTER CLAUSE

Justice (R) Zafar Iqbal Chaudhry v. Federation of Pakistan and others

APPLICATION FOR AMENDMENT AND CONSTITUTIONAL PETITION BOTH DISMISSED; APPROVED FOR REPORTING

W.P. No. 55961 of 2026, Lahore High Court, Lahore (2026 LHC 6977) · Bench: Asim Hafeez, J · Decided: 07.10.2026 · Uploaded: 13.10.2026

FACTS

The petitioner, a retired Judge, applied claiming entitlement to pensionary benefits. The application was considered by a Committee comprising Judges of the Court and disapproved; those recommendations were considered by the Chief Justice and the request was declined. The refusal was conveyed by letter of the Registrar dated 11.05.2026, which was impugned. Having made preliminary arguments on maintainability, counsel sought an adjournment to file an application to amend the petition, and that application was heard and decided along with the main petition. The Law Officer objected to maintainability, citing Gul Taiz Khan Marwat v. The Registrar, Peshawar High Court (PLD 2021 SC 391). Counsel for the petitioner contended that the cited case had been reviewed and no longer held binding force, relying on the review judgment reported as 2026 SCMR 287 and reading passages from the additional note appended to it.

LEGAL ISSUE

Whether a constitutional petition lies against a decision of a Committee of Judges of a High Court and of the Chief Justice, declining pensionary benefits, having regard to the exclusion of 'a High Court' in clause (5) of Article 199; and what effect the review judgment in Gul Taiz Khan Marwat has upon the authority of the original judgment.

HOLDING

The petition was dismissed. The insurmountable hurdle to entertaining it, let alone passing any order under sub-clauses (a) and (b) of clause (1) of Article 199, is the specific exclusion of certain categories of person, which includes 'a High Court'; assumption of jurisdiction would be against the mandate of clause (5). On examination of the review judgment, the ratio and reasoning of the original judgment were neither overturned nor disturbed; the effect of the order was set aside in the light of an error apparent, upon the highlighting of Rule 22 of the Peshawar High Court Ministerial Establishment Rules 2020, which provided a remedy of appeal. A threadbare reading of paragraph 10 of the review judgment demonstrates a measured approach and considerable circumspection to ensure the non-expansive reach of the pronouncement. The jurisprudence on clause (5) is well settled and was not altered by the review judgment. Clause (5) is not an ouster clause in any conventional or non-conventional sense but a definition clause addressing the question who is amenable to judicial review. A High Court, comprising its Judges, Committees comprising its Judges including the Chief Justice, represents an integrated whole and is not amenable to judicial review jurisdiction;

no ground for invoking persona designata was available against the authors of the recommendations or the endorsement by the Chief Justice, the expression used in clause (5) being 'a High Court' and not any particular Judge. The exceptions discussed in District Bar Association, Rawalpindi (PLD 2015 SC 401) were not available on these facts. As to the amendment sought, what is prohibited directly cannot be accomplished indirectly in the guise of proposed amendments.

LEGAL SIGNIFICANCE

A short but precise judgment on a question that recurs whenever an administrative decision of a High Court — on pension, appointment, promotion or conditions of service — is challenged. Its first value is in disposing of an argument now frequently made: that the review in Gul Taiz Khan Marwat displaced the original judgment. It did not; the review turned on an error apparent concerning an available statutory remedy, the ratio was left intact, and the reviewing Court was deliberately careful to keep its pronouncement narrow. The second is the characterisation of Article 199(5), drawn from Justice Fazal Karim's Judicial Review of Public Actions, as a definition clause addressing the 'who' question rather than an ouster clause — a framing that is both more accurate and more useful than treating it as an immunity. The third is the integrated-whole analysis, which forecloses the persona designata route: a Committee of Judges and the Chief Justice endorsing its recommendations are the High Court, not individuals acting in some separate capacity. Practitioners should note the Court's refusal to permit by amendment what could not be achieved directly, and its closing affirmation of institutional collegiality and judicial comity. Where such a grievance exists, the remedy must be found within the institution's own framework.

LEGAL PROPOSITIONS (VERBATIM)

— *Clause (5) of Article 199 is not an ouster clause in any conventional or non-conventional sense. It is what it is described to be; a definition clause.*

— *I have examined the review judgment, wherein the ratio / reasoning of the original judgment was neither overturned nor disturbed*

— *Contents of amended petition and amendments sought are examined, and I am convinced that, what is prohibited directly cannot be accomplished indirectly; in guise of or through proposed amendments.*

— *In view of the aforesaid, I stand by and affirm the conventional wisdom, reiterated through numerous judicial pronouncements, that the institutional collegiality and judicial comity shall be ensured and maintained.*

LEGAL PRINCIPLES EXPOUNDED

A High Court, comprising its Judges, Committees of its Judges and the Chief Justice, represents an integrated whole and is not amenable to judicial review jurisdiction.

Source: A "High Court", which comprises of Judges, Committee's comprising of its Judges and including the Chief Justice, represents 'an integrated whole' and are not amenable to judicial review jurisdiction.

Authority: Article 199(5), Constitution of Pakistan, 1973; Gul Taiz Khan Marwat v. The Registrar, Peshawar High Court (PLD 2021 SC 391)

No plea of persona designata is available against the authors of recommendations or their endorsement by the Chief Justice, the expression in clause (5) being 'a High Court' and not any particular Judge.

Source: No ground for invoking plea of 'persona designata' is otherwise available against the author(s) of the recommendations and endorsement by the Honourable Chief Justice – an expression 'a High Court' has been used in clause (5) of Article 199 of the Constitution and reference was not to any particular Judge.

Authority: Article 199(5), Constitution of Pakistan, 1973

A reviewable ground is one where the decision was per incuriam or where the error is so evident that it floats on the surface of the record, having substantial impact on the final outcome.

Source: It is by now settled that a reviewable ground would essentially be one where the decision was per incuriam or where error is so evident that it is floating on the surface of the record, having substantial impact on the final outcome of the case as happened in the instant case, thereby constituting a valid ground for review.

Authority: Gul Taiz Khan Marwat v. The Registrar, Peshawar High Court (2026 SCMR 287)

OPERATIVE ORDER

Application and constitutional petition are hereby, dismissed.

■ [View Full Judgment](#)

PUNJAB PRE-EMPTION ACT, 1991 S. 13(1) — A MAJLIS FOR THE PURPOSE OF TALB-I-MUWATHIBAT REQUIRES A SITTING, MEETING OR GATHERING OF MORE THAN ONE PERSON; A DECLARATION MADE WHILE SITTING ALONE BEFORE THE INFORMER ALONE DOES NOT SATISFY THE STATUTORY REQUIREMENT

Ata ul Mohsin v. Hashim Ali and others (with five connected matters)

ALL SIX CONNECTED MATTERS DISMISSED; THE SUITS FOR POSSESSION THROUGH PRE-EMPTION FAILING FOR WANT OF A VALID TALB-I-MUWATHIBAT; APPROVED FOR REPORTING

Civil Revision No. 904 of 2014, R.S.A. No. 198 of 2010, Civil Revision No. 1888 of 2012, R.S.A. No. 67 of 2014, Civil Revision No. 2885 of 2014 and Civil Revision No. 2886 of 2014, Lahore High Court, Lahore (2026 LHC 7083) · Bench: Ahmad Nadeem Arshad, J (following the determination of the Larger Bench by order dated 14.04.2026) · Decided: 05.10.2026 · Uploaded: 16.10.2026

FACTS

In each of the connected matters the plaintiffs were non-suited on the ground that, while sitting alone and upon receiving information from an informer regarding the sale of the suit property, they announced their claim of pre-emption. The courts below held, relying upon Mutali v. Khizar Hayat (PLD 2012 Lahore 1), that Talb-i-Muwathibat had not been performed in accordance with law as no Majlis existed when the demand was made. The revisions and second appeals were admitted for regular hearing in view of the contrary dictum in Ghulam Muhammad v. Mian Abdul Karim (PLJ 2014 Lahore 16). Divergent views having emerged as to what constitutes a Majlis within section 13(1), the matter was referred by order dated 24.03.2014 for constitution of a Division Bench, which in Muhammad Riaz v. Ghulam Hussain (2016 YLR 56) endorsed Ghulam Muhammad. By order dated 11.03.2026 another Division Bench referred the question for a Larger Bench, on the ground that the view in Ghulam Muhammad had not been adequately addressed and that conclusive settlement was warranted. The Larger Bench, by order dated 14.04.2026 and taking into consideration the Supreme Court's judgment in Amanullah v. Muhammad Shareef Khan (2024 SCMR 430), answered the question and remitted the individual cases to the Single Bench for adjudication on their own facts.

LEGAL ISSUE

What constitutes a Majlis within the contemplation of section 13(1) of the Punjab Pre-emption Act, 1991 for the purpose of making the jumping demand of Talb-i-Muwathibat, and whether a declaration made by a pre-emptor sitting alone, before the informer alone, satisfies that requirement.

HOLDING

All six matters were dismissed. The reasoning in Mutali, which the courts below had applied, was that the words 'sitting' and 'meeting', and the Urdu word Majlis, denote a group of persons and not a single person; that the legislature intended the jumping demand to be made before a group of people who may all know the pre-emptor's demand; that the right of pre-emption is a weak and feeble right whose existence and enforcement require strict proof; and that a single person does not constitute a sitting, meeting or Majlis, the requirement being a declaration before at least two persons before whom the informer informs of the sale. That approach, after the divergence with Ghulam Muhammad had been referred first to a Division Bench and then to a Larger Bench, was settled by the Larger Bench in the light of Amanullah v. Muhammad Shareef Khan (2024 SCMR 430). Applying that determination, the plaintiffs, appellants and petitioners in all the connected matters failed to establish compliance with the mandatory requirement of Talb-i-Muwathibat under section 13: the alleged declaration of intention, having been made while the respective pre-emptors were sitting alone and in the absence of a Majlis as contemplated by the statute and authoritatively interpreted by the Supreme Court, was legally insufficient, and subsequent proceedings could not revive or validate the extinguished right. Equity and sympathy cannot prevail over an express statutory command, particularly where the Supreme Court has authoritatively interpreted the provision and a Larger Bench has applied that interpretation to the precise controversy.

LEGAL SIGNIFICANCE

The definitive answer, after more than a decade of conflicting Single Bench authority, to a question that decides a great many pre-emption suits in Punjab. The practical rule is now beyond argument: a pre-emptor who announces his demand on receiving news of the sale while he is alone with the informer has not performed Talb-i-Muwathibat, because a Majlis requires a gathering of more than one person — at minimum, a declaration before two persons. The judgment is valuable for its procedural history as much as its outcome, tracing the divergence from Mutali through Ghulam Muhammad and Muhammad Riaz to successive references and finally the Larger Bench's application of Amanullah; anyone citing the earlier Single Bench authorities needs to know they have been superseded. Read alongside the Supreme Court's decision in Sarfraz Ahmad digested elsewhere in this issue, the message to the pre-emption bar is consistent and unsparing: both Talbs are mandatory statutory conditions, each must be proved strictly, and the courts will not supply by equity what the statute requires to be established by evidence. The closing observation that equity and sympathy cannot prevail over an express statutory command is the sentence that will be quoted.

LEGAL PROPOSITIONS (VERBATIM)

— A single person does not constitute sitting, meeting or Majlis.

— It is an established principle of law that right of pre-emption is a weak right and it should be proved through a clear and primary direct evidence. It is a feeble right and as such its existence and enforcement require strict proof.

— having been made while the respective pre-emptors were sitting alone and in the absence of a Majlis as contemplated by the statute and authoritatively interpreted by the Hon'ble Supreme Court, was legally insufficient.

LEGAL PRINCIPLES EXPOUNDED

The words 'sitting', 'meeting' and 'Majlis' in section 13 denote a group of persons; the jumping demand must be made before a group and not before a single person.

Source: The intention of legislature shows that "Talb-i-Muwathibat" should be before a group of persons and not before single person and at least before two persons before whom the informer informs about the sale.

Authority: Section 13(1), Punjab Pre-emption Act, 1991; Mutali v. Khizar Hayat (PLD 2012 Lahore 1); Amanullah v. Muhammad Shareef Khan (2024 SCMR 430)

Equity and sympathy cannot prevail over an express statutory command, particularly where the Supreme Court has authoritatively interpreted the provision and a Larger Bench has applied that interpretation.

Source: Equity and sympathy cannot prevail over an express statutory command, particularly where the Hon'ble Supreme Court has already authoritatively interpreted the provision and the Larger Bench of this Court has applied that interpretation to the precise controversy arising before it.

Authority: Section 13, Punjab Pre-emption Act, 1991; Amanullah v. Muhammad Shareef Khan (2024 SCMR 430)

OPERATIVE ORDER

In view of the above, I find that the plaintiffs/appellants/petitioners in all the connected matters failed to establish compliance with the mandatory requirement of Talb-i-Muwathibat under Section 13 of the Punjab Pre-emption Act, 1991. ... Resultantly, Civil Revision No.904/2014, Civil Revision No.1888/2012, Regular Second Appeal No.67/2014, Civil Revision No.2885/2014 and Civil Revision No.2886/2014 are all dismissed. Regular Second Appeal No.198/2010 is also dismissed by dismissing the appellant's suit for possession through pre-emption as the requirement of a valid Talb-i-Muwathibat was not established in accordance with Section 13 of the Pre-emption Act, 1991. No order as to costs.

■ [View Full Judgment](#)

PUNJAB PROTECTION OF OWNERSHIP OF IMMOVABLE PROPERTY ACT, 2025 AS AMENDED BY THE AMENDMENT ACT, 2026, SS. 7, 8, 10; CONSTITUTION OF PAKISTAN, 1973 ART. 199 — WHERE THE STATUTE PROVIDES NO APPEAL OR REVISION AGAINST AN INTERIM ORDER OF THE PROPERTY TRIBUNAL, CONSTITUTIONAL JURISDICTION IS NOT TO BE STRETCHED TO SUPPLY ONE

Ayyaz Ahmad and five others v. Punjab Property Tribunal and others

WRIT PETITION DISMISSED IN LIMINE AS NOT MAINTAINABLE; APPROVED FOR REPORTING

Writ Petition No. 10974 of 2026, Lahore High Court, Multan Bench, Multan (2026 LHC 7003) · Bench: Ch. Muhammad Iqbal, J · Decided: 14.09.2026 · Uploaded: 14.10.2026

FACTS

The sixth respondent filed a complaint under section 7(1) and (2) of the Punjab Protection of Ownership of Immovable Property Act, 2025, as amended in 2026, contending that she had obtained the suit property by inheritance through mutation No. 6087, that partition proceedings had been completed, and that the petitioners had illegally occupied her land. She appeared on 18.07.2026 and made a corroborating statement before the Tribunal, which, after receiving the petitioners' evidence, referred the matter to the District Scrutiny Committee under section 7(3) — the Tribunal being required to make that reference within three days of receipt of a complaint, and the Committee to report within thirty days. The Committee, constituted under section 8 and comprising the Deputy Commissioner as convener with police and revenue officers, probed the ownership documents and reported that the sixth respondent was the owner, the property having devolved upon her by inheritance mutation with partition proceedings completed and that decision upheld by the High Court, and that she was prima facie the real landowner whose request for retrieval of possession merited consideration. On that report the Tribunal, after hearing the parties, passed an interim order dated 09.09.2026 under section 10(1) directing the Tehsildar and the Station House Officer to retrieve possession and hand the land to the complainant. The petitioners challenged that interim order without having challenged the Committee's report or filed objections to it.

LEGAL ISSUE

Whether a constitutional petition lies against an interim order of the Punjab Property Tribunal passed under section 10(1) of the Act regulating possession during the pendency of a complaint, where the statute provides no remedy of appeal or revision against such an order.

HOLDING

The petition was dismissed in limine as not maintainable. Under section 10 the Tribunal is competent to pass an appropriate order to regulate the possession of the property during the pendency of the case and has jurisdiction to issue directions to the concerned officers for restoration of possession to the actual owner, sub-section (2) empowering it to direct the officer-in-charge of the police station or authorise any government functionary to secure compliance. Where the statute itself does not provide a remedy against an interim order, constitutional jurisdiction is not stretchable to supply another like remedy of appeal or revision, and the constitutional petition is not maintainable; the remedy of appeal or revision is withheld with the object of avoiding unnecessary delay and safeguarding the rights of the parties. The jurisdiction under Article 199 cannot be enlarged merely to provide a forum akin to an appellate or revisional court, and the Court in its constitutional jurisdiction always avoids sitting as an appellate forum or substituting findings of fact recorded by a lower court or tribunal. A further obstacle was that the petitioners had challenged only the interim order and had neither challenged the Scrutiny Committee's report nor filed objections to it, so that the report had attained finality and become a past and closed transaction.

LEGAL SIGNIFICANCE

The first judgment in this digest on the Punjab Protection of Ownership of Immovable Property Act, 2025 and its 2026 amendment — a regime that is already generating a substantial volume of work in the Property Tribunals and which practitioners in Punjab will need to understand quickly. Its practical message is unwelcome for occupiers: an interim order under section 10(1) directing restoration of possession is effectively insulated from challenge, because the statute gives no appeal or revision and the High Court will not supply one under Article 199. That makes the earlier stages decisive. The judgment's second limb is

where the real lesson lies: the petitioners lost ground irretrievably by failing to challenge the Scrutiny Committee's report or to file objections to it, with the consequence that the report attained finality. Anyone defending such a complaint must therefore engage with the Committee process under sections 7(3) and 8 — attending, producing documents, and objecting to an adverse report — rather than waiting to attack the interim order that follows. The judgment also sets out the Committee's composition and powers in full, which makes it a convenient first reference on the new procedure.

LEGAL PROPOSITIONS (VERBATIM)

- *Under Section 10 of the Act ibid, the Tribunal is competent to pass an appropriate order to regulate the possession of the property*
- *Thus, jurisdiction of this Court under Article 199 of the Constitution of Pakistan, 1973 cannot be enlarged just to provide a forum alike that of an appellate or revisional court, as such this Court in its Constitutional jurisdiction always avoid to sit as an appellate forum and to substitute the findings of*
- *As such the said report has attained the status of finality and has become past and closed transaction.*

LEGAL PRINCIPLES EXPOUNDED

Where the statute provides no remedy against an interim order, the constitutional jurisdiction is not stretchable to supply another like remedy of appeal or revision.

Source: *not provided in the very statute against the interim order, then the constitutional jurisdiction is not stretchable to necessarily provide another alike remedy of an appeal or Revision rather the constitutional petition is not maintainable.*

Authority: *Section 10, Punjab Protection of Ownership of Immovable Property Act, 2025; Saif-ur-Rehman v. Additional District Judge, Toba Tek Singh (2018 SCMR 1885)*

The withholding of a remedy of appeal or revision is deliberate, with the object of avoiding unnecessary delay while safeguarding the rights of the parties.

Source: *Further, as in the matter in issue, the remedy of appeal/revision is not provided in statute with the object to make end of unnecessary delay as well as to safeguard the right of the party.*

Authority: *Punjab Protection of Ownership of Immovable Property Act, 2025*

A Scrutiny Committee report which is neither challenged nor met by objections attains finality and becomes a past and closed transaction.

Source: *Furthermore, the petitioners through this petition have challenged the validity of interim order passed by the Tribunal but they have neither challenged the report of the Scrutiny Committee nor filed any objections on the said report.*

Authority: *Sections 7(3) and 8, Punjab Protection of Ownership of Immovable Property Act, 2025; Pakistan International Airlines Corporation v. Aziz ur Rehman Chaudhary (2016 SCMR 14)*

OPERATIVE ORDER

For what has been discussed above, this Writ Petition is hereby dismissed in limine being not maintainable.

■ [View Full Judgment](#)

Sindh High Court

3 judgments

CODE OF CIVIL PROCEDURE, 1908 O. VIII R. 1, O. XVII R. 3, S. 100; CANTONMENTS RENT RESTRICTION ACT, 1963 — A WRITTEN STATEMENT IS NOT EVIDENCE AND CANNOT SUBSTITUTE FOR IT; A SUIT FOR ARREARS OF RENT REMAINS MAINTAINABLE AFTER TERMINATION OF THE TENANCY

Fasih-ur-Rehman Alvi v. Dr. Tasneem Aslam Tariq

SECOND APPEAL DISMISSED; CONCURRENT JUDGMENTS AND DECREES OF THE TRIAL COURT AND THE FIRST APPELLATE COURT MAINTAINED; APPROVED FOR REPORTING

Second Appeal No. 3 of 2024, High Court of Sindh at Karachi; 2026 SHC KHI 1936 · Bench: Justice Ms. Sana Akram Minhas · Decided: 15.10.2026 (heard 18.08.2026 and 28.08.2026) · Uploaded: 15.10.2026

FACTS

The appellant's right to produce evidence in his defence was closed by the trial Court by order dated 13.08.2022 under Order XVII Rule 3 CPC, the matter having repeatedly been adjourned for that purpose. That order was never challenged before any forum. The appellant contended that despite his illness, and notwithstanding his counsel's presence and applications explaining his absence, the trial Court had closed his right to lead evidence; he produced no documentary evidence whatsoever in support of the alleged illness. He further contended that his written statement, being already on record, ought to have been considered notwithstanding the closure. The respondent had earlier instituted ejectment proceedings under the Cantonments Rent Restriction Act, 1963, and thereafter a civil suit for recovery of arrears of rent; the appellant challenged its maintainability. Both the trial Court and the first Appellate Court decided against the appellant, and he brought a second appeal under section 100 CPC.

LEGAL ISSUE

Whether the closure of a defendant's right to produce evidence under Order XVII Rule 3 CPC may be reopened in later proceedings where the order was never challenged; whether a written statement already on record can be considered as evidence notwithstanding that closure; and whether a civil suit for recovery of arrears of rent is maintainable after the tenancy has terminated and ejectment proceedings have concluded.

HOLDING

The appeal was dismissed. The order of 13.08.2022 closing the appellant's right to produce evidence was never challenged before any competent forum, remained unassailed and attained finality; the appellant could not therefore seek to reopen the question without having first challenged it in the judicial hierarchy. No documentary evidence was produced in support of the alleged illness, and the presence of counsel and the filing of applications explaining absence could not dispense with the obligation to produce evidence: the obligation to enter the witness-box rested upon the appellant and his witnesses, not upon counsel, whose appearance could not substitute for their evidence. On the written statement, pleadings define the parties' respective cases but do not by themselves prove the facts pleaded; the mere filing and verification of a written statement under Order VIII Rule 1 does not constitute evidence, and its averments cannot, absent proof according to law, be treated as substantive evidence or a substitute for it — a principle firmly established by a long line of Supreme Court authority spanning the Evidence Act, 1872 and continuing under the Qanun-e-Shahadat Order, 1984, and applied on closely similar facts in *Federation of Pakistan v. Jaffar Khan* (PLD 2010 SC 604). On maintainability, the primary object of rent laws is to regulate the landlord-tenant relationship rather than to provide an exclusive remedy for recovery of arrears; where the tenant has vacated, a claim for unpaid rent assumes the character of a post-tenancy monetary claim which may be pursued by an independent civil suit if within limitation and not otherwise barred.

LEGAL SIGNIFICANCE

Three propositions of everyday utility, each stated with unusual clarity. First, and most important for defendants: a written statement is not evidence. The point is elementary but is argued with surprising frequency, and the judgment collects the controlling authority from *Khair-ul-Nisa* (PLD 1972 SC 25) through *Jaffar Khan* (PLD 2010 SC 604) in a single place. A defendant whose evidence has been closed cannot fall back on his pleadings. Second, on procedure: an order under Order XVII Rule 3 closing the right to produce evidence must be challenged when made; left unassailed it attains finality, and the question cannot be reopened collaterally in an appeal against the decree. Third, on rent practice: termination of a tenancy or the

conclusion of ejectment proceedings does not extinguish an accrued claim for unpaid rent, which survives as a post-tenancy monetary claim enforceable by ordinary civil suit, following Ahmad Taimure Bukhari (1991 SCMR 1569). The Court's reminder that counsel's appearance cannot substitute for a party's testimony, and that a plea of illness must be documented, is worth passing on to clients who treat adjournments as costless.

LEGAL PROPOSITIONS (VERBATIM)

- *Pleadings define the parties' respective cases but do not, by themselves, prove the facts pleaded.*
- *adduce evidence in support of his defence rested upon the Appellant and/or his witnesses and not upon the Counsel; Counsel's appearance could not substitute for their evidence.*
- *Consequently, the said order remained unassailed and attained finality.*
- *The primary object of rent laws is to regulate the relationship between landlord and tenant and the rights and obligations arising therefrom, rather than to provide an exclusive remedy for the recovery of arrears of rent.*

LEGAL PRINCIPLES EXPOUNDED

The mere filing and verification of a written statement does not constitute evidence, and its averments cannot be treated as substantive evidence or as a substitute for evidence.

Source: *The mere filing and verification of a written statement under Order 8 Rule 1 CPC, does not constitute evidence. Its averments cannot, in the absence of proof in accordance with law, be treated as substantive evidence or as a substitute for evidence adduced before the court.*

Authority: Order VIII Rule 1, Code of Civil Procedure, 1908; *Khair-ul-Nisa v. Muhammad Ishaque* (PLD 1972 SC 25); *Federation of Pakistan v. Jaffar Khan* (PLD 2010 SC 604)

Where the tenant has vacated the demised premises, a claim for unpaid rent assumes the character of a post-tenancy monetary claim which may be pursued through an independent civil suit.

Source: *Where the tenant has vacated the demised premises, a claim for unpaid rent assumes the character of a post-tenancy monetary claim, which may be pursued through an independent civil suit for recovery, provided that the suit is instituted within the period prescribed by the applicable law of limitation and is not otherwise barred by law.*

Authority: *Ahmad Taimure Bukhari v. Murrawwat Burjees* (1991 SCMR 1569); *Cantonments Rent Restriction Act, 1963*

Termination of a tenancy, or conclusion of ejectment proceedings, does not by itself extinguish an accrued claim for unpaid rent.

Source: *The said decision establishes that termination of a tenancy, or conclusion of ejectment proceedings, does not, by itself, extinguish an accrued claim for unpaid rent.*

Authority: *Ahmad Taimure Bukhari v. Murrawwat Burjees* (1991 SCMR 1569)

OPERATIVE ORDER

The Appellant has failed to establish any substantial error of law or other ground warranting interference under Section 100 CPC. Accordingly, the Impugned Judgments and Decrees of both the learned Trial Court and the first Appellate Court are maintained, and the instant Second Appeal, being devoid of merit, is dismissed. There shall be no order as to costs.

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INCOME TAX ORDINANCE, 2001 SS. 133, 154A(2)(A) AND (B), 154A(3), 161, 163, 165(2A), 182 — THE FILING OF WITHHOLDING STATEMENTS IS A CONDITION OF ELIGIBILITY FOR THE FINAL TAX REGIME UNDER SECTION 154A AND NOT A MERE PROCEDURAL REQUIREMENT; NON-FULFILMENT TAKES THE EXPORTER OUT OF SUB-SECTION (2) BY FORCE OF SUB-SECTION (3)

A.C. Technologies, Karachi v. The Commissioner Inland Revenue, Zone-III, Karachi

QUESTIONS ANSWERED AGAINST THE APPLICANT; REFERENCE APPLICATION DISMISSED; THE TRIBUNAL'S DIRECTION REMANDING THE MATTER FOR COMPUTATION UNDER THE NORMAL TAX REGIME LEFT UNDISTURBED; APPROVED FOR REPORTING

Income Tax Reference Application No. 419 of 2025, High Court of Sindh at Karachi; 2026 SHC KHI 1932 · Bench: Agha Faisal and Dr. Shah Nawaz Memon, JJ (judgment by Dr. Shah Nawaz Memon, J) · Decided: 12.10.2026 · Uploaded: 12.10.2026

FACTS

The applicant, an exporter, claimed the benefit of the final tax regime available under section 154A of the Income Tax Ordinance, 2001. Clause (b) of sub-section (2) makes the filing of withholding statements required by the Ordinance a condition of that finality. The statement filed for the first quarter of tax year 2023 did not disclose the tax deducted and deposited in that quarter; it was not revised under section 165(2A), and was not cured by the annual statement. The department took the view that the condition was unfulfilled, with the consequence under sub-section (3) that sub-section (2) did not apply. The Appellate Tribunal upheld that view and remanded the matter for computation of taxable income and tax liability under the normal tax regime. Before the Court the applicant argued, in substance, that a defective statement attracted penalty under section 182 rather than the loss of finality, and that the requirement in clause (b) should be treated as procedural.

LEGAL ISSUE

Whether the condition in section 154A(2)(b) requiring the filing of withholding statements is a condition of eligibility for the final tax regime or a procedural requirement whose breach is answered by penalty under section 182; and whether a statement which omitted the tax deducted and deposited, and was neither revised under section 165(2A) nor cured by the annual statement, fulfilled that condition.

HOLDING

Both questions were answered in the negative, against the applicant. Section 182 and section 154A(2) operate in different fields. A penalty is the consequence of breaching a duty, and the Ordinance attaches its own consequences to defaults in the withholding regime which fall on every withholding agent in default, whether or not it seeks any concession — section 161 making a person who fails to deduct, collect or pay personally liable, section 163 making the amount recoverable as tax due, and the table to section 182 providing the penalties. Clause (b) of section 154A(2), by contrast, applies only to the person who claims finality and imposes no penalty: it states a condition, and sub-section (3) states what follows if the condition is not fulfilled, namely that sub-section (2) does not apply. The result is not punitive — the exporter is simply taxed under the normal regime on taxable income computed after admissible deductions, which is what the Tribunal directed. There was a further difficulty with the applicant's submission: if a penalty were the only consequence of an untrue statement, clause (b) would have no work to do, since an exporter could file blank statements, bear the penalty and keep the concession; the same reasoning would apply to the return in clause (a). A construction which drains a statutory condition of all effect could not be adopted. The two provisions stand together — the penalty answers the breach of the withholding agent's duty, and the denial of finality answers the failure of the condition.

LEGAL SIGNIFICANCE

Of direct concern to every exporter claiming final taxation under section 154A, and a decision that removes a commonly pleaded escape route. The rule is now plain: the withholding statements are a condition of eligibility, not paperwork, and a statement that omits the tax deducted and deposited does not satisfy clause (b) unless revised under section 165(2A). The consequence of failure is not a penalty but the loss of final-regime treatment altogether, with assessment reverting to the normal regime. Two features of the reasoning travel beyond this provision. First, the Court's separation of penalty from condition — a penalty

answers a breach of duty and falls on every defaulter, whereas a condition applies only to the person seeking the concession and its non-fulfilment simply withdraws the concession — is a distinction worth deploying wherever a taxpayer argues that a statutory condition is adequately answered by the penalty regime. Second, the *reductio* is compelling and quotable: if penalty were the only consequence, an exporter could file blank statements, bear the penalty and keep the concession, which would leave clause (b) with no work to do. Advisers should ensure quarterly withholding statements are complete and, where they are not, revised promptly under section 165(2A); the annual statement will not cure the defect.

LEGAL PROPOSITIONS (VERBATIM)

- Section 182 and section 154A(2) operate in different fields. A penalty is the consequence of breaching a duty.
- It states a condition, and sub-section (3) states what follows if the condition is not fulfilled: sub-section (2) does not apply. The result is not punitive.
- A construction that drains a statutory condition of all effect is not one we can adopt.
- The two provisions stand together: the penalty answers the breach of the withholding agent's duty, and the denial of finality answers the failure of the condition.

LEGAL PRINCIPLES EXPOUNDED

The filing of the withholding statements required by the Ordinance is a condition of eligibility for final taxation and not a mere procedural requirement; its non-fulfilment takes the applicant out of sub-section (2) by force of sub-section (3).

Source: Once filing the withholding statements required by the Ordinance is made a condition of final taxation, it is a condition of eligibility and not a mere procedural requirement.

Authority: Sections 154A(2)(b) and 154A(3), Income Tax Ordinance, 2001

If a penalty were the only consequence of an untrue statement, the statutory condition would have no work to do.

Source: If a penalty were the only consequence of an untrue statement, clause (b) would have no work to do. An exporter could file blank statements, bear the penalty and keep the concession, and the condition would mean nothing.

Authority: Sections 154A and 182, Income Tax Ordinance, 2001

The consequences of default in the withholding regime fall on every withholding agent in default, whether or not it seeks any concession.

Source: The Ordinance attaches its own consequences to defaults in the withholding regime, and they fall on every withholding agent in default, whether or not it seeks any concession.

Authority: Sections 161, 163 and 182, Income Tax Ordinance, 2001

OPERATIVE ORDER

The questions are answered against the applicant and in favour of the respondent department, and the reference application is dismissed. The direction of the learned Tribunal remanding the matter for computation of the taxable income and tax liability under the normal tax regime was not questioned before us and remains undisturbed. There is no order as to costs.

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CUSTOMS ACT, 1969 S. 196; CUSTOMS RULES, 2001 RR. 102(1)(K), 102(3), 102(4) — A CUSTOMS AGENT'S LICENCE MAY BE REVOKED ONLY IN CONFORMITY WITH RULE 102(3); A SHOW CAUSE NOTICE MUST SET OUT THE ALLEGATIONS WITH THEIR PARTICULARS AND DISCLOSE THE MATERIAL RELIED UPON

The Collector of Customs (Hqrs), Karachi v. M/s Eagle Clearing & Forwarding Agency, Karachi and connected references

NINE REFERENCES DISPOSED OF; THE TRIBUNAL'S ORDERS SETTING ASIDE THE SHOW CAUSE NOTICES, ORDERS-IN-ORIGINAL AND ORDERS-IN-APPEAL AND RESTORING THE LICENCES MAINTAINED, MODIFIED ONLY TO THE EXTENT OF THE ANSWERS TO QUESTIONS 3 AND 4; INTERIM ORDERS RECALLED; LIBERTY TO INITIATE FRESH PROCEEDINGS PRESERVED; APPROVED FOR REPORTING

Spl. Customs Reference Application No. 23 of 2026, Spl. Customs Reference Applications No. 215 to 217 of 2025 and connected (nine references), High Court of Sindh at Karachi; 2026 SHC KHI 1918 · Bench: Agha Faisal and Dr. Shah Nawaz Memon, JJ · Decided: 09.10.2026 · Uploaded: 09.10.2026

FACTS

Proceedings were initiated towards the end of January 2025 against an Appraising Officer (BPS-16) posted in the Customs Assessment Unit on allegations that he had demanded and received illegal gratification from customs agents in respect of goods declarations assessed by him, and FIR No. 01 of 2025 was registered on 30.01.2025. In the course of that probe a mobile phone said to belong to a driver described as the Appraising Officer's conduit was examined and WhatsApp communications retrieved. On 01.02.2025 the licences of the respondent customs agents were suspended by circular under rule 102(4) and show cause notices were issued the same day. The notice to Eagle Clearing charged that the agent had contacted and offered illegal gratification to Customs Appraisers through the named conduit seeking favourable assessment, corroborated by WhatsApp chats retrieved from two mobile phones; that scrutiny of the conduit's phone revealed the agent had sought the names of Appraising Officers to whom its goods declarations were assigned in order to influence assessment; and that it had attempted to influence or bribe officers in violation of the Customs Agents Licensing Rules, 2001. The notice to Eastern Agencies contained the first and third charges but not the second. The licences were revoked and securities forfeited. The Tribunal set aside the show cause notices, orders-in-original and orders-in-appeal and restored the licences in each case. Arguments were addressed in two references and adopted in the remaining seven.

LEGAL ISSUE

Whether the show cause notices satisfied rule 102(3) of the Customs Rules, 2001 so as to sustain revocation of the respondents' licences; whether actual benefit or outcome in specific goods declarations is an ingredient of rule 102(1)(k); whether a forensic report is a precondition to acting upon electronic material; and whether a customs agent's licence is a conditional privilege.

HOLDING

The references were disposed of largely against the Department. The questions turned on what the show cause notices contained rather than on the merits of the underlying allegations, and the Tribunal's orders rest on the deficiency of the notices and of the proceedings founded upon them; they are not a finding that the respondents did not commit the acts alleged. On the third question the Court answered in the Department's favour: actual benefit, or outcome in specific goods declarations, is not an ingredient of rule 102(1)(k), an attempt sufficing — though this did not affect the Tribunal's conclusion on rule 102(3). On the fourth question the Court declined to approve the Tribunal's view, holding that a forensic report is not, as a matter of law, an invariable precondition for acting upon electronic material, while treating the Tribunal's assessment of the reliability and attribution of the material before it as a matter of fact disclosing no error of law. The question whether a customs agent's licence is a conditional privilege was answered in the affirmative, with the qualification that the licence may be revoked only in conformity with rule 102(3). The second question was one of fact which did not arise in the reference jurisdiction, save that no finding of violation could validly be returned in proceedings founded upon show cause notices that did not satisfy rule 102(3). The Court observed that proceedings properly framed and fairly conducted serve the Department's own purpose better than proceedings which fail at the threshold, and preserved liberty to the Licensing Authority to initiate fresh proceedings by a notice setting out the allegations with their particulars and disclosing the material relied upon.

LEGAL SIGNIFICANCE

A judgment with immediate consequences for customs agents and for the Licensing Authority alike, decided across nine references and therefore effectively settling the point. Its central holding is procedural but decisive: a licence is a conditional privilege, but it may be taken away only through a notice that complies with rule 102(3), meaning one which sets out the allegations with particulars and discloses the material relied upon. Notices issued on the same day as suspension, reciting conclusions drawn from WhatsApp material retrieved from a third party's phone without disclosing that material, will not do. Two subsidiary answers deserve attention because they go the Department's way and will be relied on in future proceedings. First, rule 102(1)(k) is directed at the attempt: actual benefit or a favourable outcome in particular goods declarations is not an ingredient, so an agent cannot defend on the footing that nothing came of the approach. Second, the Court declined to accept that a forensic report is always a precondition to acting upon electronic material — a holding that should be read alongside the Lahore High Court's treatment of electronic evidence digested elsewhere in this issue. The preservation of liberty to issue fresh and properly particularised notices means these respondents are not out of the woods, and the Court's observation that properly framed proceedings serve the Department better is plainly addressed to the Authority.

LEGAL PROPOSITIONS (VERBATIM)

— *Proceedings that are properly framed and fairly conducted serve the department's own purpose better than proceedings which fail at the threshold.*

— *Actual benefit, or outcome in specific goods declarations, is not an ingredient of rule 102(1)(k); an attempt suffices.*

— *A forensic report is not, as a matter of law, an invariable precondition for acting upon electronic material, and to that extent the view of the Tribunal is not approved.*

— *The facts may be stated briefly, because the questions turn on what the show cause notices contained rather than on the merits of the underlying allegations.*

LEGAL PRINCIPLES EXPOUNDED

A customs agent's licence is a conditional privilege, but may be revoked only in conformity with rule 102(3).

Source: The question in Spl. Cus. Ref. A. Nos. 215 to 217 of 2025 whether a customs agent's licence is a conditional privilege is answered in the affirmative, with the qualification that the licence may be revoked only in conformity with rule 102(3).

Authority: Rules 102(1) and 102(3), Customs Rules, 2001

No finding of violation can validly be returned in proceedings founded upon show cause notices which do not satisfy rule 102(3).

Source: The same applies to the question in Spl. Cus. Ref. A. Nos. 215 to 217 of 2025 whether the respondents violated rule 102, save that no finding of violation could validly be returned in proceedings founded upon show cause notices that did not satisfy rule 102(3).

Authority: Rule 102(3), Customs Rules, 2001; section 196, Customs Act, 1969

Orders resting on the deficiency of a show cause notice are not a finding that the acts alleged were not committed, and fresh proceedings may be initiated by a properly particularised notice.

Source: It follows that the Tribunal's orders rest on the deficiency of the show cause notices and of the proceedings founded upon them; they are not a finding that the respondents did not commit the acts alleged.

Authority: Rule 102, Customs Rules, 2001

OPERATIVE ORDER

These references are disposed of in the above terms. The judgments of the Tribunal, in so far as they set aside the show cause notices, the orders-in-original and the orders-in-appeal and restore the respondents' licences, are maintained, and shall stand modified only to the extent of our answers to Questions 3 and 4. Interim orders passed in these references, including the suspension of the impugned judgments, stand recalled. The liberty recorded in paragraph 32 is preserved.

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