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CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Monday, 23 November 2026

Upload Window: Judgments approved for reporting and uploaded on the working days 20, 21 and 23 November 2026, with stragglers from 17 and 19 November

FCC: 2 judgments | SC: 2 judgments | LHC: 8 judgments | SHC: 3 judgments | IHC: no new entries

2	2	8	3	15
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WINDOW, METHOD AND EXCLUSIONS

Window. The last issue closed on 19 November 2026. This issue covers the working days since: 20, 21 and 23 November 2026. Sunday 22 November is excluded. A straggler sweep was run for 17 and 19 November, the days on which the previous scan closed, and it produced five of the fifteen entries: C.P.L.A. 148-L/2023 (Supreme Court), F.C.P.L.A. 1712/2026 (Federal Constitutional Court), 2026 LHC 8937 and 2026 LHC 8930, and 2026 SHC MPK 2281, MPK 2280 and MPK 2256. Each was checked against the 19 November issue before inclusion; there are no duplicates.

Supreme Court portal migration. The Supreme Court's judgment portal has moved. The former address, www.supremecourt.gov.pk/latest-judgements/, now resolves to scp.gov.pk/LatestJudgments, and judgment PDFs are served from www.scp.gov.pk/Judgments/ rather than /downloads_judgements/. Links in this issue use the new addresses. Links to Supreme Court judgments in issues before this one point to the old path and may no longer resolve; the judgments can be found by case number on the new portal.

Court-by-court yield. Supreme Court: two judgments, both approved for reporting, both digested. The Court's upload rate was unusually low for the period. Federal Constitutional Court: three judgments were endorsed for reporting in the window; two are digested and one, C.P.L.A. 97-L/2017 (partition proceedings, refusal to interfere with concurrent findings), is omitted as adding nothing to settled doctrine. Lahore High Court: nine judgments were available; eight are digested and one, 2026 LHC 9008 (one further opportunity to cross-examine, on costs), is omitted as turning wholly on its own facts. Sindh High Court: four endorsed judgments were available; three are digested and one, 2026 SHC MPK 1991/2132 (Sindh Arms Act acquittal on benefit of doubt), is omitted, the principles it applies on safe custody and absence of private mashirs being already well settled.

Islamabad High Court. The Islamabad High Court's "Judgements of Sitting Justices" listing again shows the same eight items it has shown for six consecutive windows, the most recent of them uploaded on 30 September 2026. This is a portal fault rather than an absence of reported judgments, and it means the Islamabad High Court has not been effectively covered in this or the five preceding issues. It is recorded here as a known gap.

Sindh listing dates. The Sindh portal publishes an order date but no upload date, and it fills retrospectively, so a scan run on the day itself will not see everything. The dates given for Sindh entries are order dates. One item carries an evident data-entry error in the portal, an order date of 30 November 2030; it is one of the omitted judgments.

Carried forward and unresolved. Three Supreme Court judgments remain image-only scans with no text layer and have not been read: C.P.L.A. 1157/2021, C.P.L.A. 788/2018 and C.A. 1468/2018. C.P.L.A. 677-P/2026 has a scrambled text layer and was flagged rather than digested. C.A. 1740/2021 and Crl.A. 96/2020 have partly corrupted text layers; only passages verified against a clean run of text were quoted from them.

Verification. Every quoted passage in this issue was checked against the text of the originating judgment PDF, extracted from the court's own server, and matched character for character after normalisation of whitespace and quotation marks. Eight passages initially failed on page-break, running-header, page-number or footnote-marker artefacts; each was resolved by trimming to a verified contiguous run or substituting a clean passage, never by relaxing the check. All one hundred and forty-nine fragments now pass.

Federal Constitutional Court of Pakistan

2 judgments

CONSTITUTIONAL LAW AND TAXATION — PROVINCIAL INFRASTRUCTURE DEVELOPMENT CESS — LEGISLATIVE COMPETENCE — ARTICLE 142 AND ENTRIES 27, 43, 49 AND 54 OF THE FEDERAL LEGISLATIVE LIST — ARTICLES 151, 143, 147 AND 163 — TAX OR FEE — PITH AND SUBSTANCE — RETROSPECTIVE VALIDATION

M/s Chashma Ghee Mills (Pvt) Ltd v. Secretary to Government of Khyber Pakhtunkhwa, Excise & Taxation Department, Peshawar and others, and connected matters

APPROVED FOR REPORTING

C.A. No. 80 of 2020 and connected appeals, petitions and transferred cases · Bench: Amin-ud-Din Khan, CJ and Aamer Farooq, J · Decided: 19 November 2026 · Uploaded: 20 November 2026

FACTS

A large group of connected matters came from the Peshawar High Court, the High Court of Balochistan and the High Court of Sindh, together with writ petitions transferred from the Lahore High Court. Taxpayers challenged provincial infrastructure development cess levied under section 94 of the Khyber Pakhtunkhwa Finance Act, 2013 with the Collection of Cess for Development and Maintenance of Infrastructure Rules, 2014; the Sindh Development and Maintenance of Infrastructure Cess Act, 2017; and the Khyber Pakhtunkhwa Infrastructure Development Cess Act, 2022 as amended by section 14 of the KPK Finance Act, 2024, which split the charge into a domestic limb under section 3(1)(a) and an import, export and transit limb under section 3(1)(b). The charges were ad valorem, computed on customs-assessed value (with weight and distance elements in the Sindh Schedule) and collected through the federal customs clearance machinery. The Provinces defended them as residual provincial levies, or alternatively as fees compensating for use of provincial infrastructure. The Additional Attorney General, the Revenue Division and the Federal Board of Revenue supported the taxpayers on competence.

LEGAL ISSUE

Whether provincial infrastructure development cess, in its true nature and operation, falls within provincial legislative competence or encroaches upon Parliament's exclusive authority over imports, exports, interprovincial trade and customs duties; whether such a levy can be sustained as a fee; whether entrustment of collection to federal customs officers under Article 147, or retrospective validation and indemnity provisions, can cure the defect.

HOLDING

The appeals and converted petitions of the taxpayers were allowed and the charging provisions, with all dependent rules, notifications, assessments and recovery measures, declared unconstitutional and without lawful authority to the extent challenged. The Court held that legislative competence must be settled before reasonableness of rate, purpose of expenditure or administrative convenience is considered, and that the presumption of constitutionality cannot supply competence or allow the Court to recast the charging provision. Applying pith and substance, the material feature of each scheme was that liability arose from the international entry or departure of goods: the selection of goods by reference to importation or exportation, the persons made liable, customs-based valuation, the time of payment and the link with customs clearance together showed an impost on imports or exports. The weight and distance elements affected only computation, not the taxable event. The encroachment was substantive rather than incidental. The levies could not be saved as fees, since no real and reasonable relationship was shown between the class charged, the basis of liability and the services relied upon, and the predominance of consignment value reinforced that conclusion. Entry 54 does not allow a Province to legislate in the federal field by calling an exaction a fee; the doctrines of incidental encroachment and double aspect do not authorise taxation of a subject exclusively assigned elsewhere. Entrustment of collection under Article 147 concerns administration only and cannot alter the Fourth Schedule. Article 151 furnished a further safeguard. Retrospectivity, validation and indemnity cannot cure legislative incompetence. The declaration was confined to the provisions and applications

adjudicated; the domestic limb in section 3(1)(a) of the 2022 Act was left for separate analysis, including under Entry 49.

LEGAL SIGNIFICANCE

The headline fiscal judgment of the week and the controlling authority on provincial infrastructure cess across Sindh and Khyber Pakhtunkhwa. It removes the import, export and transit limbs of these levies in their entirety, discharges securities furnished solely for them, and bars enforcement of any demand, surcharge or penalty founded on them. For practitioners it settles that an infrastructure purpose, a compensatory label, customs-based valuation or collection through customs cannot convert a customs impost into a competent provincial charge, that validating legislation and indemnity clauses are of no avail against want of competence, and that Article 147 entrustment presupposes a function already within provincial competence. The Court expressly preserved the Provinces' freedom to enact competent infrastructure or service charges on goods manufactured and consumed within the Province, and left the purely intra-provincial limb open.

LEGAL PROPOSITIONS (VERBATIM)

— Legislative competence flows from the Constitution and cannot be conferred or altered by governmental agreement, acquiescence or administrative practice.

— Legislative authority over an expressly reserved federal subject cannot arise merely because the proceeds of a levy are intended for a provincial purpose.

— That presumption, however, cannot supply legislative competence or authorize the Court to substitute a different taxable event or recast the charging provision. The power to read down a provision permits interpretation within its terms; it does not extend to creating a fiscal scheme that the legislature has not enacted.

— A provincial levy does not become invalid merely because it affects imported goods; equally, a charge which is, in substance, a customs impost does not fall within provincial competence merely because its proceeds finance provincial infrastructure.

— The encroachment upon the federal field is therefore substantive, rather than incidental: the goods attract the levy in their character as imports or exports.

— A Province cannot create a fiscal barrier within the national trading system merely by describing the charge as compensation for infrastructure.

— A fee need not correspond precisely to the benefit received by each payer; services may benefit an identifiable class collectively and the public incidentally. It must nevertheless bear a real and reasonable relationship to the services or regulatory arrangement invoked to justify it.

— Nor does Entry 54 permit a Province, by describing an exaction as a fee, to legislate upon matters reserved to the federal field in Part I.

— The doctrines of incidental encroachment and double aspect accommodate overlap between laws otherwise within legislative competence; they do not authorize taxation of a subject exclusively assigned to another legislature.

— Even assuming valid entrustment, federal consent and requisite ratification, the defect of legislative competence remains: administrative cooperation cannot alter the Fourth Schedule.

— Parliament's decision not to exercise a fiscal power does not transfer that subject to the provinces.

— Retrospectivity, however, cannot cure legislative incompetence. A validating law must fall within the legislature's authority and remove the defect underlying the earlier adjudication. Neither deemed validation of past collections nor a clause overriding judgments can cure an invasion of the exclusive federal field.

— Rules, notifications and recovery measures founded upon the unconstitutional charge consequently fall to that extent: sublato fundamento cadit opus.

— The High Courts thus confused the purpose for which the proceeds were to be applied with the subject upon which the levy was imposed, and consequently failed to give effect to the constitutional limits upon provincial legislative competence.

LEGAL PRINCIPLES EXPOUNDED

Legislative competence is a constitutional question that cannot be settled by inter-governmental agreement, acquiescence or administrative practice, and must be decided before any question of rate, purpose or convenience.

Source: *Legislative competence flows from the Constitution and cannot be conferred or altered by governmental agreement, acquiescence or administrative practice.*

Authority: *C.A. 80/2020 etc., para 4*

The purpose to which proceeds are applied cannot create competence over a subject expressly reserved to Parliament.

Source: *Legislative authority over an expressly reserved federal subject cannot arise merely because the proceeds of a levy are intended for a provincial purpose.*

Authority: *C.A. 80/2020 etc., para 6*

The presumption of constitutionality cannot supply competence, and reading down does not extend to inventing a taxable event the legislature never enacted.

Source: *That presumption, however, cannot supply legislative competence or authorize the Court to substitute a different taxable event or recast the charging provision. The power to read down a provision permits interpretation within its terms; it does not extend to creating a fiscal scheme that the legislature has not enacted.*

Authority: *C.A. 80/2020 etc., para 8*

Where liability attaches to the international entry or departure of goods, the encroachment on the federal field is substantive and not incidental.

Source: *The encroachment upon the federal field is therefore substantive, rather than incidental: the goods attract the levy in their character as imports or exports.*

Authority: *C.A. 80/2020 etc., para 11*

A cess cannot be saved as a fee without a real and reasonable relationship between the class charged, the basis of liability and the services invoked; general governmental benefits will not do.

Source: *A fee need not correspond precisely to the benefit received by each payer; services may benefit an identifiable class collectively and the public incidentally. It must nevertheless bear a real and reasonable relationship to the services or regulatory arrangement invoked to justify it.*

Authority: *C.A. 80/2020 etc., para 14*

Incidental encroachment and double aspect accommodate overlap between competent laws; they do not license taxation of a subject exclusively assigned to another legislature.

Source: *The doctrines of incidental encroachment and double aspect accommodate overlap between laws otherwise within legislative competence; they do not authorize taxation of a subject exclusively assigned to another legislature.*

Authority: *C.A. 80/2020 etc., para 16*

Entrustment of collection to federal officers under Article 147 is an administrative arrangement and cannot alter the distribution of legislative power in the Fourth Schedule.

Source: *Even assuming valid entrustment, federal consent and requisite ratification, the defect of legislative competence remains: administrative cooperation cannot alter the Fourth Schedule.*

Authority: *C.A. 80/2020 etc., para 18*

Retrospective validation and indemnity cannot cure want of legislative competence; a validating law must itself be within competence and must remove the underlying defect.

Source: *Retrospectivity, however, cannot cure legislative incompetence. A validating law must fall within the legislature's authority and remove the defect underlying the earlier adjudication. Neither deemed validation of past collections nor a clause overriding judgments can cure an invasion of the exclusive federal field.*

Authority: *C.A. 80/2020 etc., para 24*

Parliament's forbearance from exercising a fiscal power does not transfer that subject to the Provinces.

Source: *Parliament's decision not to exercise a fiscal power does not transfer that subject to the provinces.*

Authority: *C.A. 80/2020 etc., para 22*

Rules, notifications and recovery measures resting on an unconstitutional charge fall with it.

Source: *Rules, notifications and recovery measures founded upon the unconstitutional charge consequently fall to that extent: sublato fundamento cadit opus.*

Authority: *C.A. 80/2020 etc., para 25*

OPERATIVE ORDER

Consequently, the taxpayers' civil appeals are allowed, and their petitions are converted into appeals and allowed. The impugned judgments are accordingly set aside, and the transferred cases of the taxpayers are also allowed. ... The corresponding charging provisions and all dependent rules, notifications, assessments and recovery measures are declared to be unconstitutional and without lawful authority. No demand, surcharge or penalty founded solely upon those charges shall be enforced. ... The Provinces remain free to enact constitutionally competent infrastructure or service charges on goods manufactured and consumed within the Province. No order as to costs.

■ View Full Judgment

ELECTION LAW — RESERVED SEATS FOR WOMEN — PARTY PRIORITY LIST UNDER SECTION 104 ELECTIONS ACT 2017 AND RULE 92(7) ELECTIONS RULES 2017 — ARTICLE 225 AND SECTION 139 — EXCLUSIVITY OF THE ELECTION TRIBUNAL — SCOPE OF THE COMMISSION'S CORRECTIVE POWERS UNDER SECTIONS 4, 8 AND 9

Jamiat Ulema-e-Islam Pakistan through Ibrar Ahmed Khan, and Hina Bibi v. Sadaf Ihsan and others

APPROVED FOR REPORTING

F.C.P.L.As. Nos. 1712 and 1713 of 2026 · Bench: Amin-ud-Din Khan, CJ and Aamer Farooq, J · Decided: 5 November 2026 · Uploaded: 19 November 2026 (straggler)

FACTS

Jamiat Ulema-e-Islam Pakistan submitted its priority list for women's reserved seats in the National Assembly from Khyber Pakhtunkhwa for the General Elections, 2024. By notification dated 4 March 2024 the Election Commission declared Sadaf Ihsan elected against a seat allocated to the party. The party disputed the nomination, asserting that its list named Sadaf Yasmin, a different person. The Commission suspended the notification; Sadaf Ihsan successfully challenged that action before the Peshawar High Court; on 24 December 2025 the Court, by consent, set aside that judgment and remitted the matter to the Commission. On reconsideration the Commission, by a reasoned order dated 28 January 2026, maintained her election and left the aggrieved party to the Election Tribunal. Hina Bibi claimed entitlement to the seat on Sadaf Ihsan's exclusion, relying on an order dated 2 February 2024 which had placed her at the bottom of the priority list, and on a departmental finding of inefficiency against the Returning Officer. The Islamabad High Court dismissed both writ petitions by a consolidated order dated 9 June 2026.

LEGAL ISSUE

Whether a dispute as to whether the person notified as elected to a reserved seat was in fact the candidate named in the party's priority list can be resolved in constitutional jurisdiction or through the Commission's corrective powers, or whether it must be taken to the Election Tribunal by election petition under Article 225 of the Constitution read with section 139 of the Elections Act, 2017.

HOLDING

Leave to appeal was refused and both petitions dismissed. The Court held that election to a reserved seat remains an election to the National Assembly, so any challenge to its validity must follow the constitutional and statutory procedure for election disputes. Inclusion in the party list and fulfilment of nomination requirements are distinct conditions, neither substituting for the other; an election officer cannot introduce an outsider into a party's list or substitute one candidate for another on a resemblance of names, but equally a party's later denial of nomination does not invalidate an election already notified. Whether the statutory prohibition in section 104(1) against alteration of the list was breached depended on proof of the alleged substitution, which required evidentiary examination: the record disclosed no admitted clerical error, the revised list retained Sadaf Yasmin's name without identifying particulars, and Sadaf Ihsan had filed nomination papers in her own name and appeared in the published record as a party candidate. Membership alone does not establish nomination, and the departmental finding against the Returning Officer established neither impersonation nor Hina Bibi's entitlement. Section 156(1)(a) recognises invalid nomination as a ground for declaring an election void, so the allegation fell within the Tribunal's jurisdiction; the absence of direct polling for a reserved seat does not exclude that remedy. The deeming provision in section 9(4) applies

only when the Commission exercises its power under section 9(1) and confers no general adjudicatory jurisdiction, and the Commission was not obliged to treat a disputed allegation as proof of illegality. The order of 24 December 2025 required reconsideration, not a particular outcome, and was complied with. The party's own inability to present an election petition does not justify enlarging constitutional jurisdiction, and anticipated delay before the Tribunal does not render it legally incapable. Article 224(6) with section 104(5) governs vacancies arising from death, resignation or disqualification, and a challenge to a notified member's nomination does not itself create a vacancy. Observations by the Commission, the High Court or the Court were expressly made non-conclusive in the election proceedings, which remain subject to limitation and maintainability.

LEGAL SIGNIFICANCE

A clear restatement, after the reserved-seats litigation of 2024, that the Election Tribunal has exclusive jurisdiction over a challenge to a notified return on a reserved seat, including a challenge framed as an administrative or clerical error in the party's priority list. It confines the Commission's corrective power under section 9 to grave illegalities materially affecting a poll apparent from the record, holds that section 9(4) is not a source of general adjudicatory jurisdiction, and marks the distinction between party-list inclusion and valid nomination. It also disposes of the argument that a political party, lacking standing to file an election petition, may therefore invoke Article 199.

LEGAL PROPOSITIONS (VERBATIM)

— Election to a reserved seat remains an election to the National Assembly, and any challenge to its validity must conform to the constitutional and statutory procedure governing election disputes.

— Inclusion in the party list and fulfilment of the nomination requirements are distinct conditions; neither substitutes for the other. An election officer cannot introduce an outsider into a party's list or substitute one candidate for another merely because their names resemble each other.

— Equally, a party's subsequent denial of nomination does not, by itself, invalidate an election already notified.

— The statutory prohibition against alteration safeguards the list against both unauthorized official action and subsequent changes by the party. Whether that prohibition was breached depends upon proof of the alleged substitution; the allegation itself cannot establish the breach.

— Membership alone does not establish nomination.

— Article 225 of the Constitution, read with section 139 of the Act, requires an election to be challenged through an election petition by a candidate for that election. The relief sought would displace a notified member in favour of a rival candidate; describing the alleged defect as an administrative error does not alter its substance.

— The absence of direct polling for a reserved seat does not exclude the prescribed electoral remedy.

— The deeming provision in sub-section (4) applies when the Commission exercises its power under sub-section (1); it does not confer unrestricted jurisdiction to adjudicate every election dispute.

— The Commission was under no obligation to accept a disputed allegation as proof of illegality.

— Failure to object neither validates an unlawful nomination nor establishes consent, but reinforces the need to test the competing accounts through evidence. Dismissal rests upon the nature of the dispute and the prescribed remedy; delay does not cure an unlawful election.

— Anticipated delay does not render that forum legally incapable of determining the controversy.

— A challenge to the notified member's nomination does not itself create a vacancy or establish Hina Bibi's entitlement by precedence.

LEGAL PRINCIPLES EXPOUNDED

An election to a reserved seat is an election to the Assembly and must be challenged by election petition under Article 225 with section 139; recasting the complaint as an administrative error does not change its substance.

Source: *Article 225 of the Constitution, read with section 139 of the Act, requires an election to be challenged through an election petition by a candidate for that election. The relief sought would displace a notified member in favour of a rival candidate; describing the alleged defect as an administrative error does not alter its substance.*

Authority: *F.C.P.L.A. 1712/2026 etc., para 8*

Inclusion in the party priority list and compliance with nomination requirements are distinct conditions, and neither can be substituted for the other.

Source: *Inclusion in the party list and fulfilment of the nomination requirements are distinct conditions; neither substitutes for the other. An election officer cannot introduce an outsider into a party's list or substitute one candidate for another merely because their names resemble each other.*

Authority: *F.C.P.L.A. 1712/2026 etc., para 6*

Breach of the statutory prohibition against alteration of the list must be proved; the allegation does not establish it.

Source: *The statutory prohibition against alteration safeguards the list against both unauthorized official action and subsequent changes by the party. Whether that prohibition was breached depends upon proof of the alleged substitution; the allegation itself cannot establish the breach.*

Authority: *F.C.P.L.A. 1712/2026 etc., para 6*

Section 9(4) of the Elections Act operates only where the Commission has exercised its power under section 9(1) and is not a source of general jurisdiction to adjudicate election disputes.

Source: *The deeming provision in sub-section (4) applies when the Commission exercises its power under sub-section (1); it does not confer unrestricted jurisdiction to adjudicate every election dispute.*

Authority: *F.C.P.L.A. 1712/2026 etc., para 9*

The absence of a direct poll for a reserved seat does not displace the statutory election remedy.

Source: *The absence of direct polling for a reserved seat does not exclude the prescribed electoral remedy.*

Authority: *F.C.P.L.A. 1712/2026 etc., para 8*

A challenge to a notified member's nomination does not itself create a vacancy under Article 224(6) with section 104(5), nor establish a rival's entitlement by precedence.

Source: *A challenge to the notified member's nomination does not itself create a vacancy or establish Hina Bibi's entitlement by precedence.*

Authority: *F.C.P.L.A. 1712/2026 etc., para 13*

OPERATIVE ORDER

For the foregoing reasons, no ground for grant of leave to appeal is made out. These petitions are accordingly dismissed and leave to appeal is refused. The consolidated order dated 09.06.2026 of the Islamabad High Court in Writ Petitions Nos.904 and 903 of 2026 and the order dated 28.01.2026 of the Election Commission of Pakistan are upheld, subject to the observations and qualifications recorded above. No order as to costs.

■ **View Full Judgment**

Supreme Court of Pakistan

2 judgments

SERVICE LAW — DISCIPLINARY PROCEEDINGS AGAINST RETIRED EMPLOYEES — SECTION 21 PEEDA ACT 2006 — PROSPECTIVE OPERATION OF THE AMENDMENT ACT 2026 — RULE 1.8(A) PENSION RULES 1963 — INVALIDATION CERTIFICATES

Secretary Irrigation, Government of Punjab and others v. Hamza Mukhtar and others

APPROVED FOR REPORTING

C.P.L.A. Nos. 82-L, 131-L to 137-L, 157-L to 165-L, 182-L to 185-L and 192-L to 214-L of 2026 · Bench: Muhammad Ali Mazhar and Shahid Bilal Hassan, JJ · Decided: 1 July 2026 · Uploaded: 21 November 2026

FACTS

Forty-four connected petitions by the Government of the Punjab challenged a consolidated judgment of the Punjab Service Tribunal dated 27 October 2025. The respondents fell into two sets. The first set were employees of the Irrigation Department who had been retired on medical grounds on the strength of invalidation certificates issued by a Medical Board at Services Hospital, Lahore and countersigned by the Director General Health Services, Punjab; years later the department alleged that those certificates were bogus and proceeded against them under Rule 1.8(a) of the Pension Rules, 1963 to withhold and recover pension. The second set were their sons, appointed against the invalidated/incapacitated quota under Rule 17-A of the Punjab Civil Servants (Appointments & Conditions of Service) Rules, 1974, whose services were dismissed or terminated with recovery of pay on the footing that their fathers' certificates were forged. The Tribunal held the departmental action barred by the proviso to section 21 of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 and set aside both sets of orders, directing that the intervening period be treated as leave of the kind due.

LEGAL ISSUE

Whether disciplinary or pension-withdrawal proceedings could be initiated against retired employees beyond the two-year period fixed by the original proviso to section 21 of the PEEDA Act, 2006; whether the substituted proviso introduced by the amending Act of 2026, which permits extension of that period for reasons recorded in writing, operates retrospectively; whether Rule 1.8(a) of the Pension Rules, 1963 furnishes an independent procedural vehicle for such action; and whether the appointments of the second set could be undone on the strength of General Post Office, Islamabad v. Muhammad Jalal (PLD 2024 SC 1276).

HOLDING

The petitions were converted into appeals and partly allowed, but only as to the treatment of the intervening period. The Court held that the original proviso to section 21, framed in negative language, made it mandatory to finalise proceedings against a retired employee not later than two years of retirement, and that proceedings taken after that period stood abated and orders passed thereafter were void. The proviso substituted by the Punjab Employees Efficiency, Discipline and Accountability (Amendment) Act, 2026 (XVII of 2026), which allows extension for reasons recorded in writing, operates prospectively only and could not revive the time-barred action. Rule 1.8(a) of the Pension Rules, 1963 makes good conduct an implied condition of pension but provides no independent procedure; the opportunity it requires could only be afforded under PEEDA 2006, whose section 20 has overriding effect and whose section 21 governs proceedings against retired employees. The invalidation certificates, having been issued by a duly constituted Medical Board, conveyed through the proper channel and already verified, could not be branded forged without confronting the Board members in a regular inquiry. The dismissal of the second set, resting on the same foundation, fell with it on the maxim sublato fundamento cadit opus, and was additionally unlawful because inquiry was dispensed with without justification. General Post Office v. Muhammad Jalal applies prospectively and cannot undo past and closed appointments. On the alternative prayer of the Additional Advocate General, to which the respondents consented, the direction regarding leave of the kind due was modified to extraordinary leave without pay.

LEGAL SIGNIFICANCE

The leading authority on the temporal limits of disciplinary action against retired provincial employees after the 2026 amendment of section 21 PEEDA. It fixes the amendment as prospective, so every pre-amendment action already time-barred stays barred, and forecloses the familiar departmental device of invoking Rule

1.8(a) of the Pension Rules as a free-standing procedure outside PEEDA. It also protects a large class of quota appointments from retrospective unsettling on the authority of Muhammad Jalal, and reaffirms that a medical invalidation certificate cannot be treated as forged on departmental assumption.

LEGAL PROPOSITIONS (VERBATIM)

— this Court held in terms of proviso of Section 21 of PEEDA 2006 that the departmental proceedings initiated against a retired employee should be finalized not later than two years of his retirement, which was mandatory in nature

— Any proceedings after the said statutory period shall stand abated and any orders passed after the efflux of the said time period were void and had no legal effect.

— The proviso to Section 21 of the Act contains negative phrases that have an imperative effect, making it mandatory to conclude the proceedings against a retired employee within the prescribed timeframe.

— the fact remains that action could not be initiated without a procedural vehicle provided under some statute or rule to trigger the disciplinary action.

— No independent procedure is provided under pension rules therefore for all intents and purposes, the proceedings could only be initiated under PEEDA 2006 while adhering to and following the exactitudes of the limitation period provided for commencing and culminating the disciplinary proceedings.

— The invalidation certificates could not be proved forged unless confronted to the members of the Medical Board after proper regular inquiry.

— On the basis of vague or inadequate departmental proceedings or the action barred by limitation, neither the pension could be stopped or recovered nor the services could be dismissed or terminated at the whims of the department.

— The department, having remained inactive for the prescribed period, appears to have awakened only after the expiry of the limitation period, thereby rendering the belated departmental action legally untenable and without lawful justification.

— If on the basis of a void order, subsequent orders have been passed, either by the same authority or by other authorities, the entire series of such orders, together with the superstructure of rights and obligations built upon them, must fall, unless some statute or principle of law recognizes the changed position of the parties as legal.

LEGAL PRINCIPLES EXPOUNDED

The two-year limit in the original proviso to section 21 PEEDA is mandatory; proceedings commenced or concluded beyond it abate and orders passed after it are void.

Source: *Any proceedings after the said statutory period shall stand abated and any orders passed after the efflux of the said time period were void and had no legal effect.*

Authority: *C.P.L.A. 82-L/2026 etc., para 15, citing Province of Punjab v. Javed Iqbal (2021 SCMR 328) and Chief Minister Punjab v. Muhammad Afzal Anjum Toor (2024 PLC (C.S.) 147)*

Negative phrasing in the proviso carries imperative effect, so the timeframe cannot be read as directory.

Source: *The proviso to Section 21 of the Act contains negative phrases that have an imperative effect, making it mandatory to conclude the proceedings against a retired employee within the prescribed timeframe.*

Authority: *C.P.L.A. 82-L/2026 etc., para 15*

A substantive rule such as Rule 1.8(a) of the Pension Rules, 1963 cannot by itself launch disciplinary action; a procedural vehicle under a statute or rules is indispensable, and PEEDA 2006 is the only one available.

Source: *No independent procedure is provided under pension rules therefore for all intents and purposes, the proceedings could only be initiated under PEEDA 2006 while adhering to and following the exactitudes of the limitation period provided for commencing and culminating the disciplinary proceedings.*

Authority: *C.P.L.A. 82-L/2026 etc., para 16*

A medical invalidation certificate issued by a constituted Board and conveyed through the proper channel cannot be held forged without confronting the Board members in a regular inquiry.

Source: *The invalidation certificates could not be proved forged unless confronted to the members of the Medical Board after proper regular inquiry.*

Authority: *C.P.L.A. 82-L/2026 etc., para 16*

Orders built upon a void order fall with it — sublato fundamento cadit opus — together with the rights and obligations raised on them.

Source: *If on the basis of a void order, subsequent orders have been passed, either by the same authority or by other authorities, the entire series of such orders, together with the superstructure of rights and obligations built upon them, must fall, unless some statute or principle of law recognizes the changed position of the parties as legal.*

Authority: *C.P.L.A. 82-L/2026 etc., para 17*

OPERATIVE ORDER

In view of the foregoing, these Civil Petitions are converted into appeals and are partly allowed. ... Consequently, the direction in the impugned judgment regarding treatment of the intervening period as leave of the kind due is modified and the intervening period from the date of termination/dismissal of the respondents from service until the date of the impugned judgment shall be treated as Extraordinary Leave without pay. For the rest, the impugned judgment is maintained and shall remain unaltered.

■ View Full Judgment

EXECUTION OF FOREIGN DECREES — SECTION 44-A CPC — S.R.O. 208(I)/2007 — WHETHER THE ABU DHABI COURT OF APPEAL IS THE NOTIFIED "COURT OF APPEAL OF THE UNITED ARAB EMIRATES" — FEDERAL AND EMIRATE JUDICIAL SYSTEMS

Engineering Kinetics (Pvt.) Ltd. v. Syed Muhammad Irfan Ali and others

APPROVED FOR REPORTING

C.P.L.A. No. 148-L of 2023 · Bench: Munib Akhtar and Irfan Saadat Khan, JJ, with Muhammad Shafi Siddiqui, J as referee Judge under the second proviso to Order XI of the Supreme Court Rules, 2025 · Decided: Heard 10 February 2026; referee opinion 16 November 2026; announced 19 November 2026 · Uploaded: 19 November 2026 (straggler)

FACTS

The respondent decree-holder obtained a money decree against the petitioner from the Abu Dhabi Court of First Instance (Commercial Court) on 17 June 2014 for AED 465,933 with delay interest and costs, arising out of a 2011 agreement for the manufacture and installation of pipes. The Abu Dhabi Court of Appeal affirmed that decree on 20 January 2015, enhancing only the attorney's fee. The decree-holder brought the decree to Pakistan and applied to the District Court, Lahore for direct execution under section 44-A CPC, relying on S.R.O. 208(I)/2007, by which the Federal Government declared the UAE a reciprocating territory and the "Court of Appeal of the United Arab Emirates" a superior court. The judgment-debtor objected that the notification covered the UAE federal appellate court, not the appellate court of a constituent Emirate. The Additional District Judge dismissed the objection and the Lahore High Court upheld that dismissal in E.F.A. No. 2427 of 2022. The Additional Attorney General, on a Court notice and a Ministry of Law and Justice opinion dated 4 August 2025, supported the decree-holder. The respondent did not appear and was proceeded against ex parte.

LEGAL ISSUE

Whether the expression "Court of Appeal of the United Arab Emirates" in S.R.O. 208(I)/2007 extends to the Court of Appeal of a constituent Emirate, so that a decree affirmed by the Abu Dhabi Court of Appeal is directly executable in Pakistan under section 44-A CPC.

HOLDING

By a majority of two to one, Irfan Saadat Khan, J dissenting, the leave petition was converted into an appeal and allowed. Munib Akhtar, J held that the UAE Constitution creates only a Federal Supreme Court and Federal Courts of First Instance, leaving all other judicial jurisdiction with the local judicial authorities of each Emirate under Article 104; Article 105 permits transfer of first-instance jurisdiction and provision of a federal appellate remedy only by a specific federal law enacted on the Emirate's request, and no such law was placed before the Court. The internal evidence of the two decisions — their titles, the composition of the panels, and the first instance court's treatment of the Abu Dhabi Court of Cassation as binding — showed that they were courts of the Emirate and not of the federal entity. Nadeem Farooq v. Newze Land Electronic Trading Co. (PLD 2017 SC 95) concerned a court of first instance and did not decide the federal/Emirate

distinction. The referee Judge concurred, adding that the status of a court must be determined by the judicial system to which it belongs rather than by the designation it bears or the nature of the jurisdiction exercised, and that the conferment of federal jurisdiction over claims arising in Abu Dhabi, the permanent capital, does not convert the Emirate's courts into federal courts. The notification therefore does not cover the Abu Dhabi Court of Appeal, and the executing court lacked jurisdiction to enforce its decree under section 44-A.

LEGAL SIGNIFICANCE

The first authority to work out, for section 44-A CPC purposes, the distinction between the federal judiciary of the UAE and the separate judicial systems of its constituent Emirates. It materially narrows S.R.O. 208(I)/2007: decrees of the Abu Dhabi, Dubai or other Emirate Courts of Appeal — the courts from which almost all UAE commercial decrees in fact come — are not directly executable in Pakistan, and the decree-holder must instead sue on the foreign judgment under section 13 CPC. It also confirms that a Ministry of Law opinion or the Federation's concurrence cannot enlarge the reach of a notification, and that a merger of the first-instance decree in the appellate decree does not change the character of the appellate forum.

LEGAL PROPOSITIONS (VERBATIM)

— All jurisdiction not conferred on federal courts by the UAE Constitution is to vest in "local judicial authorities" of the respective Emirates, as expressly stated in Article 104.

— For the purposes of SRO 208 it would be an error to conflate the appellate court of the concerned Emirate with that of the UAE or vice versa. The notification applies only to the latter and not the former.

— it will not be out of place to remember that in a federal constitutional system it is not at all extraordinary for courts to be (separately) established at the federal and "constituent unit" levels.

— Article 105 operates as a specific exception to that general allocation and does not, by its own force, convert local judicial authorities into federal courts or automatically subject their decisions to appellate jurisdiction within the federal judicial system.

— The status of a particular court must, therefore, be considered in the context of the judicial system to which it belongs, rather than inferred merely from the nature of the jurisdiction it exercises or the designation it bears.

— the conferment of federal jurisdiction over specified matters arising in the capital does not convert the local judicial authorities of Abu Dhabi into federal courts, nor does it establish that every civil or commercial dispute arising within the Emirate falls within the federal judicial system.

— The said judgment cannot, therefore, be read as extending the notification to every appellate court operating within the territorial limits of the UAE. Its recognition of the Federal Court of Appeal as a superior court must be understood in the context of the federal judicial hierarchy considered therein.

— Section 44-A of the Code of Civil Procedure, 1908, does not extend to every decree passed by a court in a reciprocating territory.

— Read in the constitutional and institutional context of the UAE, this expression refers to the Federal Court of Appeal within the federal judicial hierarchy. It does not encompass the Court of Appeal of an individual Emirate merely because that court exercises appellate jurisdiction within the UAE.

— Its appellate jurisdiction derives from that local judicial structure, and its position within that hierarchy does not confer upon it the institutional character of a Federal Court of Appeal. The fact that it affirmed the judgment of the Abu Dhabi Court of First Instance does not alter the source or character of its jurisdiction.

LEGAL PRINCIPLES EXPOUNDED

Under S.R.O. 208(I)/2007 the notified superior court is the UAE Federal Court of Appeal; the appellate court of a constituent Emirate is a different court and is not covered.

Source: *For the purposes of SRO 208 it would be an error to conflate the appellate court of the concerned Emirate with that of the UAE or vice versa. The notification applies only to the latter and not the former.*

Authority: *C.P.L.A. 148-L/2023, per Munib Akhtar, J, para 11*

A court's status is determined by the judicial system to which it belongs, not by its name or by the subject matter of the jurisdiction it happens to exercise.

Source: *The status of a particular court must, therefore, be considered in the context of the judicial system to which it belongs, rather than inferred merely from the nature of the jurisdiction it exercises or the designation it bears.*

Authority: *C.P.L.A. 148-L/2023, referee opinion of Muhammad Shafi Siddiqui, J, para 13*

Article 105 of the UAE Constitution is an exception requiring a specific federal law; absent such a law it neither transfers jurisdiction to the federal courts nor makes Emirate decisions appealable within the federal system.

Source: *Article 105 operates as a specific exception to that general allocation and does not, by its own force, convert local judicial authorities into federal courts or automatically subject their decisions to appellate jurisdiction within the federal judicial system.*

Authority: *C.P.L.A. 148-L/2023, referee opinion, para 13*

Section 44-A does not reach every decree of a court in a reciprocating territory; only decrees of the courts specified in the notification qualify.

Source: *Section 44-A of the Code of Civil Procedure, 1908, does not extend to every decree passed by a court in a reciprocating territory.*

Authority: *C.P.L.A. 148-L/2023, referee opinion, para 19*

Affirmance by an Emirate Court of Appeal does not alter the source or character of its jurisdiction, so the doctrine of merger cannot bring the decree within the notification.

Source: *Its appellate jurisdiction derives from that local judicial structure, and its position within that hierarchy does not confer upon it the institutional character of a Federal Court of Appeal. The fact that it affirmed the judgment of the Abu Dhabi Court of First Instance does not alter the source or character of its jurisdiction.*

Authority: *C.P.L.A. 148-L/2023, referee opinion, para 20*

Nadeem Farooq (PLD 2017 SC 95) is confined to the federal judicial hierarchy and does not extend the notification to every appellate court sitting within UAE territory.

Source: *The said judgment cannot, therefore, be read as extending the notification to every appellate court operating within the territorial limits of the UAE. Its recognition of the Federal Court of Appeal as a superior court must be understood in the context of the federal judicial hierarchy considered therein.*

Authority: *C.P.L.A. 148-L/2023, referee opinion, para 18*

OPERATIVE ORDER

By majority of two to one (Mr. Justice Irfan Saadat Khan, dissenting) the leave petition is converted into an appeal and is allowed. The judgments of the Lahore High Court as well the Court below are set aside. There will be no order as to costs.

■ **View Full Judgment**

Lahore High Court

8 judgments

CIVIL PROCEDURE — SUIT BY A PERSON OF UNSOUND MIND THROUGH NEXT FRIEND — ORDER XXXII RULE 15 CPC — MENTAL HEALTH ORDINANCE, 2001, SECTIONS 2(M), 29 AND 30 — WHETHER PRIOR ADJUDICATION BY THE COURT OF PROTECTION IS A CONDITION PRECEDENT

Mst. Musarrat Muhammad Din v. Safdar Ali and others

APPROVED FOR REPORTING

2026 LHC 9019 (W.P. No. 29488 of 2026) · Bench: Muzamil Akhtar Shabir, J · Decided: 12 November 2026 · Uploaded: 20 November 2026

FACTS

Safdar Ali, through his brother Muhammad Yaqoob as next friend, sued for a declaration that he remained owner in possession of the suit property and that a relinquishment deed dated 25 June 2023 in favour of his brother Mehboob Ali, the consequent mutation, and a subsequent gift deed dated 30 December 2023 with mutation in favour of his sister, the petitioner, were the result of fraud, misrepresentation and collusion. The plaint pleaded that he was of unsound mind and so incapable of entering into any binding transaction. The petitioner and Mehboob Ali contested, saying he was fully conscious and capable. The Civil Judge, Chiniot held an inquiry under Order XXXII Rule 15 CPC, summoned and examined Safdar Ali, found that he could answer nothing beyond his own name and the fact that the parties were his brothers, held the suit through next friend maintainable by order dated 19 April 2024 and granted an ad-interim injunction against further alienation. The petitioner's revision was dismissed on 17 March 2026. Before the High Court she argued that without a declaration under sections 29 and 30(1)(d) and (e) of the Mental Health Ordinance, 2001 the suit was not proceedable.

LEGAL ISSUE

Whether a suit may be instituted by a person of unsound mind through a next friend without first obtaining a declaration from the Court of Protection under section 29 of the Mental Health Ordinance, 2001 that he is mentally disordered and incapable of managing himself and his affairs.

HOLDING

The petition was dismissed. Following Malik Arshad Hussain Awan v. Messrs United Bank Limited (PLD 2024 SC 595 = 2024 CLD 804) and Faqir Syed Anwar ud Din v. Syed Raza Haider (PLD 2025 SC 31), the Court held that the Mental Health Ordinance is broader in scope than Order XXXII CPC, dealing with care, treatment and management of property rather than representation in a suit, and that where no guardian has been appointed under the Ordinance the civil court is not precluded from proceeding and appointing a guardian for the suit under Order XXXII. The court has power to determine unsoundness of mind or mental infirmity on inquiry under Order XXXII and to appoint a guardian for the limited purpose of representation, without first seeking an appointment under the Ordinance. Requiring the next friend to take that course first would risk further transfers of the property in the meanwhile, multiplying proceedings and delaying decision. The Court added that the Order XXXII Rule 15 assessment, made to protect the plaintiff's interests during the pendency of the suit, does not preclude the parties from raising the question of unsoundness for determination after recording of evidence. No illegality or jurisdictional defect was shown in the concurrent orders.

LEGAL SIGNIFICANCE

Practically important for property and family litigation where a transaction is attacked on the ground that the transferor was of unsound mind. It confirms that the Mental Health Ordinance route is not a condition precedent to suit, extends the rule in Malik Arshad Hussain Awan from the Banking Court to the ordinary civil court, and makes clear that the Rule 15 inquiry is a provisional, representation-level finding which leaves the substantive issue of unsoundness open at trial.

LEGAL PROPOSITIONS (VERBATIM)

> *— The crux of principles laid down in aforementioned judgments is that where no such guardian has been appointed under the Ordinance, it does not preclude the Civil Court to proceed and appoint a guardian for the suit under Order XXXII CPC, so that the interest of a mentally disordered person is protected before the court of*

law and also ensures the continuation and efficient conclusion of the trial.

— The Court, therefore, has the power to determine the unsoundness of mind or mental infirmity of a person on an inquiry under Order XXXII CPC based on the evidence and appoint a guardian for the suit for the limited purpose of representation before the court of law without first seeking an appointment of a guardian under the Ordinance.

— more so for the reason that if the Court directed the next friend to adopt the said course, the property belonging to the petitioner may in the meanwhile be further transferred giving rise to multiplicity of proceedings and delay in decision of the matter.

— the said observations do not preclude the parties from raising a question of unsoundness before the Court to be determined after recording of evidence.

— The said Rule, therefore, acknowledges two categories of persons of unsound mind: one who is already adjudged by a court of competent authority as a person of unsound mind; and the other, who is not so adjudged but the court itself on inquiry finds that the person is of unsound mind.

— In the second category, the court cannot decline to appoint the guardian for the suit merely for the reason that the defendant has not been so adjudged under the MHO by the competent authority.

— The scope of the MHO is thus different and broader when compared to that of Order XXXII of the C.P.C.

LEGAL PRINCIPLES EXPOUNDED

Absence of a guardian appointed under the Mental Health Ordinance, 2001 does not bar the civil court from proceeding and appointing a guardian for the suit under Order XXXII CPC.

Source: *The crux of principles laid down in aforementioned judgments is that where no such guardian has been appointed under the Ordinance, it does not preclude the Civil Court to proceed and appoint a guardian for the suit under Order XXXII CPC, so that the interest of a mentally disordered person is protected before the court of law and also ensures the continuation and efficient conclusion of the trial.*

Authority: *2026 LHC 9019, para 10*

The court may itself determine unsoundness of mind or mental infirmity on inquiry under Order XXXII and appoint a guardian for the limited purpose of representation.

Source: *The Court, therefore, has the power to determine the unsoundness of mind or mental infirmity of a person on an inquiry under Order XXXII CPC based on the evidence and appoint a guardian for the suit for the limited purpose of representation before the court of law without first seeking an appointment of a guardian under the Ordinance.*

Authority: *2026 LHC 9019, para 10*

An Order XXXII Rule 15 finding is provisional and does not foreclose determination of unsoundness after evidence.

Source: *the said observations do not preclude the parties from raising a question of unsoundness before the Court to be determined after recording of evidence.*

Authority: *2026 LHC 9019, para 11*

Order XXXII Rule 15 recognises two categories of persons of unsound mind, and in the second the court cannot refuse to appoint a guardian merely because there has been no adjudication under the Ordinance.

Source: *In the second category, the court cannot decline to appoint the guardian for the suit merely for the reason that the defendant has not been so adjudged under the MHO by the competent authority.*

Authority: *2026 LHC 9019, para 8, quoting Malik Arshad Hussain Awan v. United Bank Limited (PLD 2024 SC 595), para 5*

OPERATIVE ORDER

In view of the foregoing, this petition is accordingly dismissed.

■ View Full Judgment

CIVIL PROCEDURE — AMENDMENT OF PLEADINGS — ORDER VI RULE 17 CPC — SUCCESSIVE APPLICATION FOR AN AMENDMENT ALREADY DISALLOWED — FINALITY OF INTERLOCUTORY ORDERS — SCOPE OF REVISIONAL JURISDICTION UNDER SECTION 115 CPC

Qaisar Iqbal and others v. Additional District Judge, Sialkot and others

APPROVED FOR REPORTING

2026 LHC 9012 (W.P. No. 14169 of 2017) · Bench: Hassan Nawaz Makhdoom, J · Decided: Announced 17 November 2026; signed 20 November 2026 · Uploaded: 20 November 2026

FACTS

Two competing agreements to sell concerned agricultural land in District Sialkot. The petitioners' predecessor, Muhammad Iqbal, obtained a decree for specific performance on 22 December 1996 on an agreement dated 9 September 1994, followed by a court sale deed on 1 October 2000. Respondents 2 and 3 had separately sued for specific performance on 12 May 1996 on an agreement dated 4 January 1995. During the pendency of that suit the trial court, by order dated 13 June 2001, permitted impleadment of Muhammad Iqbal's legal heirs. In the amended plaint, however, the plaintiffs inserted paragraph 5 and its sub-paragraphs pleading fraud and collusion in obtaining the earlier decree and sale deed. Their application under section 12(2) CPC filed on 7 July 2003 was dismissed as withdrawn on 28 September 2005. On the petitioners' objection the trial court, by order dated 30 January 2015, directed deletion of the disputed averments as beyond the scope of the 2001 order, and the review application was dismissed on 27 October 2015; neither order was challenged further. The plaintiffs then moved a fresh application dated 10 November 2015 under Order VI Rule 17 CPC for substantially the same amendment, which the trial court dismissed on 9 March 2016. The Additional District Judge, Sialkot allowed the revision on 16 March 2017, on the general principle that amendment provisions warrant liberal construction.

LEGAL ISSUE

Whether an amendment of the plaint substantially identical to one already disallowed by orders that have attained finality may be permitted under Order VI Rule 17 CPC, and whether the revisional court was justified in interfering with the trial court's refusal.

HOLDING

The writ petition was allowed, the revisional order set aside and the trial court's order restored. The Court held that although Order VI Rule 17 confers wide discretion to allow amendment at any stage, the discretion is neither unbridled nor exercisable in disregard of earlier judicial determinations, and the words "at any stage of the proceedings" cannot be stretched into an indefeasible right to seek repeatedly the same amendment already declined by an order that has attained finality. Relying on Muhammad Arif Tarar v. Matloob Ahmad Warraich (PLD 2025 SC 691) and Abaid Ullah Malik v. Additional District Judge, Mianwali (PLD 2013 SC 239), the Court held that the discretion must be guided by bona fides, the nature and necessity of the amendment, explanation for delay and prejudice. The 2001 order was confined to impleadment and did not authorise averments challenging the 1996 decree; the deletion order of 30 January 2015 and the dismissal of review on 27 October 2015 having gone unchallenged, bound the parties. A question once distinctly raised and judicially determined should not ordinarily be reopened in the same proceedings absent a material change of circumstances or a fresh sustainable ground, even if strict res judicata does not attach to every interlocutory order. The application of 10 November 2015, filed nineteen years after institution of the suit, disclosed no subsequent event or newly discovered fact, and withdrawal of the section 12(2) application without adjudication could not justify reintroducing the same averments. The substance of the relief, not the nomenclature of the application, is decisive. Revisional jurisdiction under section 115 CPC does not permit substitution of the revisional court's own discretion where the order below rests on sound reasoning.

LEGAL SIGNIFICANCE

A useful authority against the common tactic of achieving by successive amendment applications what has already been refused, or what was abandoned by withdrawing a section 12(2) application. It fixes the limits of the liberal approach to Order VI Rule 17 by reference to the finality of interlocutory orders, and restates that

section 115 CPC is confined to jurisdictional error and material irregularity rather than a difference of view on discretion.

LEGAL PROPOSITIONS (VERBATIM)

— the expression "at any stage of the proceedings" cannot be stretched to confer an indefeasible right upon a litigant to repeatedly seek substantially the same amendment which has already been declined through an order attaining finality.

— The discretion vested in the Court must, therefore, be exercised judiciously, keeping in view the bona fides of the applicant, the nature and necessity of the proposed amendment, the prejudice likely to be caused to the opposite party and, above all, the sanctity and finality of earlier judicial orders.

— It is a settled principle of law that judicial orders passed by a Court of competent jurisdiction, unless varied or set aside in accordance with law, cannot be circumvented through successive applications seeking substantially identical relief.

— The principle of finality attached to a judicial order further demands that a question once distinctly raised and judicially determined should not ordinarily be reopened in the same proceedings in the absence of any material change in circumstances or legally sustainable fresh ground, notwithstanding that the strict doctrine of res judicata may not invariably be attracted to every interlocutory order.

— The mere withdrawal of those ... proceedings, without adjudication on merits, could not justify reintroduction of substantially identical averments through amendment of the plaint, particularly when no fresh factual or legal grounds were available to warrant such a course.

— Moreover, the respondents had already been refused permission to include the same averments in the plaint through earlier judicial orders, which having not been assailed any further, had attained finality. They could not, therefore, seek the same relief again without any valid justification.

— The substance of the relief sought, rather than the form or nomenclature of the application, is decisive in determining its legal effect.

— The distinction between an amendment sought to clarify or complete an existing pleading and a successive application intended to circumvent earlier judicial orders was thus overlooked.

— Furthermore, the scope of revisional jurisdiction under Section 115, C.P.C., is limited to examining the legality and jurisdictional correctness of orders passed by subordinate Courts. Such jurisdiction can be exercised only where the subordinate Court has assumed jurisdiction not vested in it by law, failed to exercise jurisdiction lawfully vested in it, or acted illegally or with material irregularity in the exercise of its jurisdiction.

LEGAL PRINCIPLES EXPOUNDED

The liberal construction of Order VI Rule 17 does not create a right to seek repeatedly an amendment already declined by an order that has become final.

Source: *the expression "at any stage of the proceedings" cannot be stretched to confer an indefeasible right upon a litigant to repeatedly seek substantially the same amendment which has already been declined through an order attaining finality.*

Authority: *2026 LHC 9012, para 6*

Unchallenged judicial orders of a competent court cannot be circumvented by successive applications for substantially identical relief.

Source: *It is a settled principle of law that judicial orders passed by a Court of competent jurisdiction, unless varied or set aside in accordance with law, cannot be circumvented through successive applications seeking substantially identical relief.*

Authority: *2026 LHC 9012, para 8*

A question distinctly raised and judicially determined is not to be reopened in the same proceedings without a material change of circumstances or a fresh sustainable ground, even where strict res judicata does not attach to an interlocutory order.

Source: *The principle of finality attached to a judicial order further demands that a question once distinctly raised and judicially determined should not ordinarily be reopened in the same proceedings in the absence of any material change in circumstances or legally sustainable fresh ground, notwithstanding that the strict doctrine of res judicata may not invariably be attracted to every interlocutory order.*

Authority: *2026 LHC 9012, para 8*

A party already refused permission to include averments by orders that have attained finality cannot seek the same relief again without valid justification, and withdrawal of a section 12(2) CPC application without adjudication furnishes no such justification.

Source: *Moreover, the respondents had already been refused permission to include the same averments in the plaint through earlier judicial orders, which having not been assailed any further, had attained finality. They could not, therefore, seek the same relief again without any valid justification.*

Authority: *2026 LHC 9012, para 9*

An application is judged by the substance of the relief it seeks, not by its form or label.

Source: *The substance of the relief sought, rather than the form or nomenclature of the application, is decisive in determining its legal effect.*

Authority: *2026 LHC 9012, para 9*

Revisional jurisdiction under section 115 CPC is confined to legality and jurisdictional correctness, and is available only where the subordinate court assumed jurisdiction it did not have, failed to exercise jurisdiction vested in it, or acted illegally or with material irregularity.

Source: *Furthermore, the scope of revisional jurisdiction under Section 115, C.P.C., is limited to examining the legality and jurisdictional correctness of orders passed by subordinate Courts. Such jurisdiction can be exercised only where the subordinate Court has assumed jurisdiction not vested in it by law, failed to exercise jurisdiction lawfully vested in it, or acted illegally or with material irregularity in the exercise of its jurisdiction.*

Authority: *2026 LHC 9012, para 10*

OPERATIVE ORDER

For the foregoing reasons, the instant writ petition is allowed. Consequently, the impugned order dated 16.03.2017, passed by the learned Revisional Court, is set aside, and the order dated 09.03.2016 of the learned Trial Court is restored. The learned Trial Court shall proceed with the pending suit expeditiously, in accordance with law, uninfluenced by any observations made hereinabove, which are confined to the controversy decided through this judgment.

■ **View Full Judgment**

BANKING — FINANCIAL INSTITUTIONS (RECOVERY OF FINANCES) ORDINANCE, 2001 — RUNNING FINANCE FACILITY — DISBURSEMENT PRECEDING THE SANCTION LETTER — SECTIONS 2(D)(IV), 2(E)(I), 9 AND 10 — LEAVE TO APPEAR AND DEFEND

M/s Hashim Motors and another v. Soneri Bank Limited

APPROVED FOR REPORTING

2026 LHC 9000 (R.F.A. No. 69173 of 2022) · Bench: Asim Hafeez and Anwaar Hussain, JJ · Decided: 5 November 2026 · Uploaded: 20 November 2026

FACTS

The respondent bank sued the appellants under section 9 of the Ordinance for Rs.3,702,863.92. Appellant No. 1 was a sole proprietorship that had availed a running finance facility; appellant No. 2 was the guarantor and had mortgaged his property. The bank relied on a request for disbursement, Memoranda of Deposit of Title Deeds dated 1 November 2013 and 21 February 2005, a registered mortgage deed dated 21 February 2005 and a further mortgage dated 16 April 2012, together with demand promissory notes, guarantees and sanction letters. The Banking Court-V, Lahore dismissed the application for leave to appear and defend and decreed the suit for Rs.2,345,959.16 with costs and cost of funds from the date of default on 13 June 2016. In appeal the appellants pressed essentially one point: the suit rested on a sanction letter dated 23 December 2013, whereas the statement of account showed disbursement on 29 July 2013 and two local-currency remittances of Rs.1,850,000 and Rs.1,883,587 by cheques dated 20 September 2013; the earlier facility had been fully adjusted on 24 July 2013, so no financing arrangement subsisted when those amounts were debited, and a later sanction letter could not retrospectively authorise them.

LEGAL ISSUE

Whether a customer who admittedly maintained a running finance facility can avoid repayment on the ground that the formal sanction letter for its renewal was issued after the disbursement and adjustment of funds, and

whether such a plea raises a substantial question of law or fact entitling him to leave to defend.

HOLDING

The appeal was dismissed and the decree maintained. The Court held that a running finance facility for working capital is ordinarily a continuing arrangement under which funds are made available, utilised and adjusted from time to time, and that the statutory scheme is not confined to a fresh disbursement under a formally executed sanction letter: section 2(d)(iv) brings loan, advance, cash credit, overdraft and any other financial accommodation within "finance", and section 2(e)(i) brings agreements for repayment, restructuring or renewal within "obligation". Issuance of a sanction letter after disbursement does not by itself show that no enforceable liability arose; the determinative consideration is whether the accommodation was actually availed and whether the transactions and conduct establish a subsisting obligation. The appellants had applied for renewal, completed the formalities, signed the credit facility advice letter dated 23 December 2013 and executed the finance and security documents; they had not disputed their signatures on the cheques or the sanction letter, had not pleaded blank signed cheques, had raised no challenge in the original leave application to the account entries and had taken no contemporaneous objection. They also failed to furnish any particulars or reconciliation showing when and how the earlier facility was discharged, though a customer seeking leave to defend is under a statutory obligation to disclose particulars of finance availed, payments made and amounts disputed. The proposed amendment of the leave application to allege fictitious transactions, absent specific particulars and a factual basis, disclosed nothing capable of altering the conclusion. On Apollo Textile Mills Ltd. v. Soneri Bank Ltd. (PLD 2012 SC 268) the bank had discharged its reciprocal obligation by placing the statement of account and finance documents on record.

LEGAL SIGNIFICANCE

Of direct use in recovery practice. It confirms that the chronology of sanction documentation is not decisive where a running finance facility was in fact availed and renewed, and that a bare assertion of prior full settlement, unsupported by particulars or reconciliation, is not a substantial defence under section 10. It also indicates that an amendment of the leave application introducing a late allegation of fictitious entries will not assist where the original application raised no such plea and signatures are undisputed.

LEGAL PROPOSITIONS (VERBATIM)

— A running finance facility, particularly one extended for meeting working capital requirements, ordinarily constitutes a continuing financial arrangement under which funds are made available, utilized and adjusted from time to time, subject to the agreed terms and limits.

— Thus, the statutory scheme is not confined to a fresh disbursement pursuant to a formally executed sanction letter but also recognizes continuing financial accommodation and obligations arising from its renewal.

— The mere fact that a sanction letter was issued subsequent to the disbursement would not, by itself, establish that no enforceable liability arose therefrom. The determinative consideration is whether the financial accommodation was actually availed and whether the relevant transactions and conduct of the parties establish a subsisting obligation.

— The mere continuation of financial exposure before completion of the formal renewal documentation does not necessarily extinguish the underlying obligation or exclude the jurisdiction of the Banking Court under Section 9 thereof.

— A mere assertion that the earlier facility stood settled, without substantiating the same through relevant account transactions, cannot constitute a substantial defence.

— Although a later sanction letter does not automatically validate every earlier disbursement, the appellants have failed to demonstrate any contractual restriction ... rendering the renewal exclusively prospective or otherwise excluding the earlier transactions from the continuing financial arrangement.

— Although an amendment may be permitted to clarify or introduce a defence in appropriate circumstances, allegations of fictitious transactions require specific particulars and a discernible factual basis.

— they lend support to the proposition that the enforceability of a financial obligation must be examined in the light of the underlying arrangement, relevant account transactions and conduct of the parties, rather than the chronology of formal documentation alone.

LEGAL PRINCIPLES EXPOUNDED

A running finance facility is a continuing arrangement, and the statutory definitions of finance and obligation extend to continuing accommodation and to renewal.

Source: *Thus, the statutory scheme is not confined to a fresh disbursement pursuant to a formally executed sanction letter but also recognizes continuing financial accommodation and obligations arising from its renewal.*

Authority: *2026 LHC 9000, para 8, on sections 2(d)(iv) and 2(e)(i) of the Ordinance*

A sanction letter issued after disbursement does not negate liability; what matters is whether the accommodation was availed and whether the conduct and account transactions show a subsisting obligation.

Source: *The mere fact that a sanction letter was issued subsequent to the disbursement would not, by itself, establish that no enforceable liability arose therefrom. The determinative consideration is whether the financial accommodation was actually availed and whether the relevant transactions and conduct of the parties establish a subsisting obligation.*

Authority: *2026 LHC 9000, para 8*

A plea of prior settlement unsupported by particulars of repayment or reconciliation of the account is not a substantial defence.

Source: *A mere assertion that the earlier facility stood settled, without substantiating the same through relevant account transactions, cannot constitute a substantial defence.*

Authority: *2026 LHC 9000, para 10*

An allegation that account entries are fictitious requires specific particulars and a discernible factual basis before it can be introduced by amendment.

Source: *Although an amendment may be permitted to clarify or introduce a defence in appropriate circumstances, allegations of fictitious transactions require specific particulars and a discernible factual basis.*

Authority: *2026 LHC 9000, para 12*

Enforceability of a financial obligation is examined by reference to the underlying arrangement, account transactions and the parties' conduct, not the chronology of documentation.

Source: *they lend support to the proposition that the enforceability of a financial obligation must be examined in the light of the underlying arrangement, relevant account transactions and conduct of the parties, rather than the chronology of formal documentation alone.*

Authority: *2026 LHC 9000, para 13, on Dadabhoy Cement Industries Ltd. v. NDFC (PLD 2002 SC 500) and Fahad Shah Nawaz Khan Khakwani v. Soneri Bank Ltd. (2019 CLD 1026)*

OPERATIVE ORDER

For the foregoing reasons, we are not persuaded to interfere with the impugned judgment and decree dated 13.06.2022, as the appellants have failed to demonstrate any illegality or material irregularity warranting interference by this Court. Consequently, the instant appeal, being devoid of merit, is dismissed and the impugned judgment and decree passed by the Banking Court is maintained.

■ View Full Judgment

CONSTITUTIONAL LAW — JUDICIAL REVIEW OF RECRUITMENT POLICY — COLLEGE TEACHING INTERNS — UPPER AGE LIMIT, WITHDRAWAL OF MARKS FOR POSITION HOLDERS, EQUIVALENCE BETWEEN ANNUAL AND SEMESTER SYSTEMS, GENDER-BASED ALLOCATION OF VACANCIES — ARTICLES 25, 27, 30(2), 37(B) AND 38(E) — ALTERNATIVE REMEDY

Naila Mumtaz and another v. Government of the Punjab and others

APPROVED FOR REPORTING

2026 LHC 8984 (W.P. No. 6570 of 2026, Bahawalpur Bench) · Bench: Syed Ahsan Raza Kazmi, J · Decided: 17 November 2026 · Uploaded: 20 November 2026

FACTS

The petitioners challenged the CTI Policy Notification No. SO(EM-I)17-20/2026(CTI) dated 21 October 2026 issued by the Higher Education Department, Government of the Punjab, which amended the eligibility and merit criteria for recruitment of College Teaching Interns for the academic session 2026-27. They objected to the introduction of a maximum age limit of 40 years where the previous policy had none, the withdrawal of additional marks previously allocated to Board and University position holders, the replacement of the earlier mechanism for determining equivalence between annual and semester systems with a uniform percentage-based formula, and the criteria governing allocation of vacancies in male and female colleges, under which female candidates could compete for vacancies in boys' BS colleges while male candidates could not compete for vacancies in female BS colleges. They sought a declaration that the impugned provisions were unconstitutional and discriminatory and restoration of the earlier criteria. The respondents defended the notification as a policy decision taken for uniformity and transparency, explaining that the earlier award of marks for positions had produced disparities because candidates emerge from different Boards and Universities with different assessment mechanisms, and pointed out that the petitioners had not approached the Grievance Redressal Cell.

LEGAL ISSUE

Whether the amendment of recruitment criteria for College Teaching Interns — an age ceiling, withdrawal of marks for academic distinctions, a revised equivalence formula and gender-based allocation of institutional vacancies — can be struck down under Article 199 in the absence of established mala fide, patent arbitrariness or hostile discrimination, and whether the petition was maintainable without first availing the Grievance Redressal Cell.

HOLDING

The petition was dismissed. The Court held that policy-making is primarily within the domain of government as employer, which is competent to fix qualifications, eligibility conditions, age limits and methods of assessment and to modify them in the light of changing administrative requirements; the existence of a criterion under an earlier policy creates no indefeasible right in prospective candidates to its continuance, and a candidate eligible under an earlier policy acquires no vested right to the same eligibility conditions in a later exercise. Relying on Watan Party v. Federation of Pakistan (PLD 2013 SC 167) and Dr. Akhtar Hassan Khan v. Federation of Pakistan (2012 SCMR 455), the Court distinguished judicial review of the legality of a policy from judicial evaluation of its administrative wisdom, and held that mala fide is a question of fact that must be specifically pleaded and established, so that a comparison showing the earlier policy to be more favourable proves nothing. Awarding additional marks for academic distinctions is one permissible method of assessing merit, not the only one. On the equivalence formula no comparative data or technical assessment was placed to show an irrational distinction. On gender-based allocation, not every distinction in allocation of institutional vacancies is prohibited discrimination; the nature and character of the institution and the requirements of the teaching environment are relevant, and Article 25(3) recognises the State's competence to make special provision for women. Articles 37(b) and 38(e), being Principles of Policy, cannot found a challenge in view of Article 30(2). The availability of the unavailed Grievance Redressal Cell furnished an additional reason to decline jurisdiction. The Court also noted that relief would affect a large body of other candidates in an ongoing recruitment exercise, and recorded that the respondents remain obliged to administer the policy fairly and uniformly.

LEGAL SIGNIFICANCE

A compact statement of the limits of Article 199 review of recruitment policy, likely to be cited whenever a revised eligibility or merit formula is challenged by candidates who were better placed under the earlier one. It confirms that no vested right attaches to the criteria of a previous recruitment cycle, that mala fide must be pleaded and proved rather than inferred from comparative disadvantage, that Article 30(2) bars reliance on the Principles of Policy, and that an unavailed departmental grievance mechanism weighs against the exercise of constitutional jurisdiction in an ongoing recruitment.

LEGAL PROPOSITIONS (VERBATIM)

— The fact that a particular criterion existed under an earlier policy does not, by itself, create an indefeasible right in prospective candidates to insist that the same criterion must continue to govern every subsequent recruitment exercise.

— Thus, the constitutional jurisdiction of this Court cannot be invoked merely to substitute one permissible policy choice with another on the ground that the latter may be more beneficial or advantageous to a particular category of persons.

— The distinction between judicial review of the legality of a policy and judicial evaluation of its administrative wisdom must, therefore, be maintained.

— The person alleging mala fide bears the burden of establishing the same through specific pleadings and supporting material, which burden cannot be discharged through mere conjectures, apprehensions or assumptions.

— A candidate who was eligible under an earlier recruitment policy does not acquire a vested right to claim continuation of the same eligibility conditions in a subsequent recruitment exercise.

— Awarding additional marks for academic distinctions is one of the possible methods of assessing merit; however, it is not the only constitutionally permissible method.

— At the same time, every distinction in the allocation of institutional vacancies does not necessarily constitute prohibited discrimination.

— Their application, however, is subject to Article 30(2) of the Constitution, which expressly provides that the validity of a law or action cannot be questioned merely on the ground that it is inconsistent with the Principles of Policy.

— Any interference with an ongoing recruitment exercise must, therefore, be founded upon a clear and demonstrable legal infirmity rather than upon a general apprehension that the revised policy may be less advantageous to certain categories of applicants.

— A recruitment policy is required to be assessed on the touchstone of legality, reasonableness and constitutional compliance, and not merely ... by comparing the advantages available under successive administrative arrangements.

LEGAL PRINCIPLES EXPOUNDED

A criterion in an earlier recruitment policy gives prospective candidates no indefeasible right to its continuance, and eligibility under an earlier policy is not a vested right.

Source: *A candidate who was eligible under an earlier recruitment policy does not acquire a vested right to claim continuation of the same eligibility conditions in a subsequent recruitment exercise.*

Authority: *2026 LHC 8984, para 10*

Constitutional jurisdiction cannot be used to replace one permissible policy choice with another that a class of candidates would prefer; legality, not administrative wisdom, is the question.

Source: *The distinction between judicial review of the legality of a policy and judicial evaluation of its administrative wisdom must, therefore, be maintained.*

Authority: *2026 LHC 8984, para 7, following Watan Party v. Federation of Pakistan (PLD 2013 SC 167)*

Mala fide is a question of fact to be specifically pleaded and established by cogent material; comparative disadvantage under a revised policy is no proof of it.

Source: *The person alleging mala fide bears the burden of establishing the same through specific pleadings and supporting material, which burden cannot be discharged through mere conjectures, apprehensions or assumptions.*

Authority: *2026 LHC 8984, para 8, following Dr. Akhtar Hassan Khan v. Federation of Pakistan (2012 SCMR 455)*

Marks for academic distinctions are one permissible method of assessing merit, not the only one; a uniformly applied alternative mechanism is open to the employer.

Source: *Awarding additional marks for academic distinctions is one of the possible methods of assessing merit; however, it is not the only constitutionally permissible method.*

Authority: *2026 LHC 8984, para 11*

Not every distinction in the allocation of institutional vacancies is prohibited discrimination; institutional character and Article 25(3) are relevant.

Source: *At the same time, every distinction in the allocation of institutional vacancies does not necessarily constitute prohibited discrimination.*

Authority: *2026 LHC 8984, para 13*

Articles 37(b) and 38(e), being Principles of Policy, cannot found a challenge to the validity of a law or action because of Article 30(2).

Source: *Their application, however, is subject to Article 30(2) of the Constitution, which expressly provides that the validity of a law or action cannot be questioned merely on the ground that it is inconsistent with the Principles of Policy.*

Authority: *2026 LHC 8984, para 14*

OPERATIVE ORDER

> *For what has been discussed above, the instant constitutional petition, being devoid of merit. ... As the main writ petition has been dismissed, hence, this application stands disposed of having become infructuous.*

■ **View Full Judgment**

CRIMINAL LAW — RIGHT OF PRIVATE DEFENCE — SECTIONS 96, 97 AND 100 PPC — KILLING OF A TRESPASSER WHO HAD RAPED THE ACCUSED'S DAUGHTER — ARTICLE 121 QANUN-E-SHAHADAT ORDER, 1984 — APPRAISAL OF THE DEFENCE PLEA IN JUXTAPOSITION WITH THE PROSECUTION CASE

Abdul Waheed v. The State and Ali Shan v. Abdul Waheed

APPROVED FOR REPORTING

2026 LHC 8974 (Crl. Appeal No. 34522 of 2025 with Crl. Revision No. 41722 of 2025) · Bench: Muhammad Waheed Khan, J · Decided: 20 November 2026 · Uploaded: 20 November 2026

FACTS

The appellant was convicted and sentenced by the trial court for the death of Mujahid Hussain. The record showed that the deceased had entered the appellant's house carrying a revolver, which the Investigating Officer took into possession by recovery memo; the woman Medical Officer deposed that the appellant's daughter, Memona Bibi, was brought for medical examination on 8 April 2023 and that, on the medico-legal findings and the Punjab Forensic Science Agency report, sexual intercourse had been committed; and the photographs of the dead body taken at the spot showed the deceased wearing no shirt at the time of death. The trial court disbelieved the prosecution version and found the appellant's act to be defensive and justified, yet held that he had exaggerated his right of self-defence, and convicted him. The complainant filed a revision for enhancement of sentence.

LEGAL ISSUE

Whether the right of private defence under sections 96, 97 and 100 PPC extended to causing the death of a trespasser who had entered the accused's house armed and subjected his daughter to rape; and whether a trial court that disbelieves the prosecution evidence and finds the act defensive can nevertheless convict on a finding that the right was exceeded, without stating how.

HOLDING

The appeal was allowed and the appellant acquitted; the revision for enhancement was dismissed. The Court held that on the material — the revolver in the deceased's hand, the medico-legal and forensic findings of rape, and the photographs showing the deceased without a shirt — there was hardly any doubt that the deceased had trespassed into the appellant's house with a revolver for an illicit purpose and had subjected his daughter to rape. Every person has a right not only to defend his own body but the body of any other

person against any offence affecting the human body, and that right extends to protecting a woman assaulted with illicit intention; section 100 Thirdly expressly extends the right to causing death where the assault is with the intention of committing rape. Where a specific plea is taken the burden under Article 121 of the Qanun-e-Shahadat Order shifts to the accused, but it is not as heavy as that of the prosecution, and the court must appraise the prosecution evidence and the defence version in juxtaposition; the prosecution is not absolved of proving its case beyond reasonable doubt even if the defence plea is not proved. The trial court, having itself held the prosecution evidence unworthy of reliance and the act defensive, could not then brand it illegal or exaggerated without stating how the right had been exceeded; its reasoning proceeded on supposition, and suppositions are to be resolved in favour of the accused. Having discredited the prosecution evidence, the trial court was bound to acquit straightaway.

LEGAL SIGNIFICANCE

A clear application of section 100 Thirdly PPC to the killing of a rapist-trespasser by the victim's father, following Mazhar Iqbal v. The State (2017 SCMR 2036) and the Indian decision in Yeshwant Rao v. State of Madhya Pradesh (AIR 1992 SC 1683). Its wider utility lies in two propositions of general criminal practice: that a court which disbelieves the prosecution case must acquit without regard to the defence plea, and that a finding of exceeding the right of private defence cannot rest on supposition but must identify how the right was exceeded.

LEGAL PROPOSITIONS (VERBATIM)

— So, on going through these provisions of law, there is no ambiguity that every person has a right not only to defend his own body, but body of any other person against any offence affecting the human body and the right of private defence extends to protect a woman who has been assaulted with the illicit intention.

— I am mindful of the fact that in case when any accused takes a specific plea, the burden shifts upon the accused under Article 121 of the Qanun-e-Shahadat Order, 1984 (QSO), to prove his plea but there is hardly any cavil with the proposition that in that case, the accused's burden would not be as heavy as that of the prosecution.

— However, the prosecution would not absolve to prove its case as per basic theory 'beyond reasonable doubt' if the Court reaches to the conclusion that the accused could not discharge his liability.

— The provisions of law give right to the occupant of any property to expel the intruder/trespasser and if the trespasser has made a trespass for illicit matters, then the right of self-defence of property and person is further fortified even to the extent of causing death of that trespasser.

— So, in that eventuality, I believe that the reasoning of learned trial Court proceeded on supposition and there is hardly any cavil with the well entrenched principle of Criminal Administration of Justice that suppositions were to be resolved in favour of the accused.

— As discussed supra, since the learned trial Court itself had firmly declared that the prosecution evidence was not worthy of reliance and discredited the same, so, without looking it to the plea of the appellant, he has to be acquitted straightway.

— Even otherwise, the learned trial Court has also not advanced any ground or reasoning to hold his opinion that how the appellant had exaggerated his right of self defence, which was available to him under the law.

LEGAL PRINCIPLES EXPOUNDED

The right of private defence extends to the body of any other person and to protecting a woman assaulted with illicit intention.

Source: *So, on going through these provisions of law, there is no ambiguity that every person has a right not only to defend his own body, but body of any other person against any offence affecting the human body and the right of private defence extends to protect a woman who has been assaulted with the illicit intention.*

Authority: *2026 LHC 8974, para 7, on sections 96, 97 and 100 PPC*

Where a trespass is for an illicit purpose, the occupant's right of defence of person and property is fortified even to the extent of causing the trespasser's death.

Source: *The provisions of law give right to the occupant of any property to expel the intruder/trespasser and if the trespasser has made a trespass for illicit matters, then the right of self-defence of property and person is further fortified even to the extent of causing death of that trespasser.*

Authority: *2026 LHC 8974, para 7, following Mazhar Iqbal v. The State (2017 SCMR 2036)*

The burden on an accused taking a specific plea under Article 121 QSO is lighter than the prosecution's, and the two cases must be appraised in juxtaposition without relieving the prosecution of proof beyond reasonable doubt.

Source: *I am mindful of the fact that in case when any accused takes a specific plea, the burden shifts upon the accused under Article 121 of the Qanun-e-Shahadat Order, 1984 (QSO), to prove his plea but there is hardly any cavil with the proposition that in that case, the accused's burden would not be as heavy as that of the prosecution.*

Authority: *2026 LHC 8974, para 7, following Ali Ahmad v. The State (PLD 2020 SC 201) and Ashiq Hussain v. The State (1993 SCMR 417)*

A court that has discredited the prosecution evidence must acquit straightaway, without regard to the defence plea.

Source: *As discussed supra, since the learned trial Court itself had firmly declared that the prosecution evidence was not worthy of reliance and discredited the same, so, without looking it to the plea of the appellant, he has to be acquitted straightway.*

Authority: *2026 LHC 8974, para 9*

A finding that the right of private defence was exceeded must state how it was exceeded; reasoning by supposition is resolved in favour of the accused.

Source: *So, in that eventuality, I believe that the reasoning of learned trial Court proceeded on supposition and there is hardly any cavil with the well entrenched principle of Criminal Administration of Justice that suppositions were to be resolved in favour of the accused.*

Authority: *2026 LHC 8974, para 8*

OPERATIVE ORDER

The upshot of the above discussion is that there being no satisfactory basis to uphold conviction and sentence of the appellant awarded by the learned trial Court through impugned judgment, so in that eventuality, while allowing the instant appeal, the same are set aside and appellant, Abdul Waheed, is acquitted of the charge. He is in jail, be released forthwith, if not required to be detained in any other case. ... since the prosecution has failed to prove its case against the appellant/respondent No.1 and has been acquitted from the case, therefore, this petition having no merits is dismissed accordingly.

■ View Full Judgment

CRIMINAL LAW — POST-ARREST BAIL ON STATUTORY DELAY — SECTION 6(5) JUVENILE JUSTICE SYSTEM ACT, 2018 — COMPUTATION OF THE SIX-MONTH PERIOD FROM ARREST RATHER THAN FROM THE DECLARATION OF JUVENILITY — DUTY TO DETERMINE AGE

Haseeb v. The State and others

APPROVED FOR REPORTING

2026 LHC 8996 (Crl. Misc. No. 57482-B of 2026) · Bench: Khalid Ibn-i-Aziz, J · Decided: 10 November 2026 · Uploaded: 20 November 2026

FACTS

The petitioner sought post-arrest bail in FIR No. 391 dated 8 September 2025 under sections 302 and 34 PPC, registered at Police Station Kaleki Mandi, District Hafizabad, in which it was alleged that he, armed with a sota and a hatchet and accompanied by two unknown persons, inflicted successive sota blows on Nazar Abbas and then a hatchet blow to his neck and left ear, from which the deceased succumbed at the spot. He was arrested on 10 September 2025. The charge was framed only on 12 March 2026, more than six months later. His claim to be under eighteen was confirmed by order dated 12 August 2026, which declared his age as seventeen, and that was not disputed by the complainant. Bail was sought solely on the ground of statutory delay, and merits were not argued. The complainant contended that the statutory period should run from the date of the declaration of juvenility.

LEGAL ISSUE

Whether, for the purpose of bail on statutory delay under section 6(5) of the Juvenile Justice System Act, 2018, the six-month period of continuous detention runs from the date of arrest of an accused who was in fact

a juvenile at that time, or only from the date on which his juvenility was judicially declared.

HOLDING

Bail was granted. The Court held that section 6(5) confers on a juvenile a right to be released on bail where he has been detained for a continuous period exceeding six months and the trial has not been completed, provided the delay was not occasioned by his own act or omission or that of anyone acting on his behalf. The complainant's contention that time should run from the declaration of juvenility was rejected: the petitioner was already a juvenile when arrested, a fact later confirmed after eleven months, and more than six months had already elapsed before the charge was framed, during which the trial was not in progress. No delay was attributable to the petitioner and the prosecution offered no plausible explanation. Following Khawar Kayani v. The State (PLD 2022 SC 551), the heinous nature of the offence does not bar release under section 6(5). The initial duty to determine the age of an accused who appears or claims to be a juvenile lies with the police; when the police fail in that duty it passes to the court, and time spent by the court in making the determination is an act of the court which cannot be construed as delay caused by the accused. The observations were recorded as tentative.

LEGAL SIGNIFICANCE

Settles a recurring computation point in juvenile bail practice: statutory delay under section 6(5) is reckoned from arrest where the accused was in fact a juvenile, not from the date the court declares him so, with the consequence that the State cannot profit from its own delay in determining age. It also applies Khawar Kayani to a murder case, and treats the age-determination period as an act of the court within the rule in Saleem Khan v. The State (PLD 2020 SC 356) and Mehran v. Ubaid Ullah (PLD 2024 SC 843).

LEGAL PROPOSITIONS (VERBATIM)

— it is of no force, for the reason that petitioner was already a juvenile at the time of his arrest, which was subsequently found to be correct after 11 months, whereas till the framing of charge, i.e., 12.03.2026, a period of more than six months already had elapsed and the trial of the present petitioner was not in progress; therefore, this is not a legal argument

— From the plain reading of the above section, it is manifestly clear that a juvenile has earned a right to be released on bail on the ground of statutory delay in the conclusion of the trial after incarceration of six months, provided that the delay was not occasioned due to his act or omission.

— Reliance is placed on Khawar Kayani's case ... wherein it has been held that the heinous nature of the offences does not bar the release of a juvenile on bail under section 6(5) of the Act.

— Similarly, initial duty to determine the age of an accused who appears or claims to be a juvenile lies with the police. When the police fail in this duty, it passes on to the court. Therefore, any time spent by the court in making this determination constitutes an act of the court, which cannot be construed as delay caused by the petitioner in the trial

— The record further reveals that, in the petitioner's case, since his arrest and after the framing of the charge, a considerable time of six months lapsed, and if the same be taken into consideration, no delay is attributed to him, and the prosecution could not give any plausible explanation to point out a single circumstance establishing that such a delay is attributed to the ... petitioner, disentitling him the post arrest bail on the ground of statutory delay

LEGAL PRINCIPLES EXPOUNDED

Where the accused was in fact a juvenile when arrested, the six-month period under section 6(5) runs from arrest and not from the later judicial declaration of juvenility.

Source: *it is of no force, for the reason that petitioner was already a juvenile at the time of his arrest, which was subsequently found to be correct after 11 months, whereas till the framing of charge, i.e., 12.03.2026, a period of more than six months already had elapsed and the trial of the present petitioner was not in progress; therefore, this is not a legal argument*

Authority: *2026 LHC 8996, para 4, following Mehran v. Ubaid Ullah (PLD 2024 SC 843)*

Section 6(5) confers a right to bail on six months' continuous detention without conclusion of trial, provided the delay is not occasioned by the juvenile's act or omission.

Source: *From the plain reading of the above section, it is manifestly clear that a juvenile has earned a right to be released on bail on the ground of statutory delay in the conclusion of the trial after incarceration of six months, provided that the delay was not occasioned due to his act or omission.*

Authority: *2026 LHC 8996, para 5*

The heinous nature of the offence does not bar release of a juvenile under section 6(5).

Source: *wherein it has been held that the heinous nature of the offences does not bar the release of a juvenile on bail under section 6(5) of the Act.*

Authority: *2026 LHC 8996, para 5, citing Khawar Kayani v. The State (PLD 2022 SC 551)*

The duty to determine age lies first with the police and then with the court, and the time the court takes is an act of the court, not delay caused by the accused.

Source: *Similarly, initial duty to determine the age of an accused who appears or claims to be a juvenile lies with the police. When the police fail in this duty, it passes on to the court. Therefore, any time spent by the court in making this determination constitutes an act of the court, which cannot be construed as delay caused by the petitioner in the trial*

Authority: *2026 LHC 8996, para 5, citing Saleem Khan v. The State (PLD 2020 SC 356)*

OPERATIVE ORDER

For what has been discussed above, this petition is accepted and the petitioner is allowed post-arrest bail, subject to his furnishing bail bonds in the sum of Rs.2,00,000/- (two lac) one surety in the like amount to the satisfaction of the learned trial court. Before parting with this order, I deem necessary to observe that the observations made hereinabove are tentative in nature and shall have no bearing on any of the other proceeding connected to this case

■ View Full Judgment

EXECUTION — COURT AUCTIONEER'S CHARGES — RULE 22, CHAPTER 12, PART L, VOLUME I OF THE LAHORE HIGH COURT RULES AND ORDERS — ADVANCE AGAINST ANTICIPATED AUCTION EXPENSES — ORDER XXI RULES 65, 66 AND 67 CPC — SECTION 19 FINANCIAL INSTITUTIONS (RECOVERY OF FINANCES) ORDINANCE, 2001

National Bank of Pakistan v. M/s Hussain Mills Limited and others

APPROVED FOR REPORTING

2026 LHC 8937 (Ex.A. No. 03 of 2026, C.M. No. 3634 of 2026, Multan Bench) · Bench: Jawad Hassan, J · Decided: 29 October 2026 · Uploaded: 19 November 2026 (straggler)

FACTS

In execution of a banking decree against M/s Hussain Mills Limited the Court had, by order dated 15 September 2026, appointed a Court Auctioneer to conduct the auction of several properties including substantial structures, fixing his remuneration at Rs.150,000 and the fee for valuation separately at Rs.450,000. The Court Auctioneer then applied under section 19 of the Ordinance read with section 151 CPC for release of Rs.1,500,000 by the decree-holder bank towards anticipated expenses of valuation, publication of the sale proclamation in Urdu and English dailies, drum beating, posters, panaflexes, video and audio recording, notices, tenting and air-conditioning, transportation, labour and miscellaneous items, stating that item-wise details of actual expenses would be furnished with the auction report. The bank opposed the application as premature, pointing to Rule 22(iv) of the Rules and Orders and to Order XXI Rule 67(2)(i) CPC as applicable in Punjab, and offered to arrange the publications itself and seek reimbursement of actual charges on completion of the auction. Counsel for the judgment-debtor supported the bank.

LEGAL ISSUE

Whether a Court Auctioneer is entitled, before the auction is conducted, to an advance from the decree-holder against estimated expenses, or only to actual expenses determined by the Court on an itemised statement supported by documentary evidence.

HOLDING

The application was dismissed as premature and unsupported by proof of actual expenditure. The Court held that Rule 22(iv) of the Rules and Orders provides that where an auction sale is ordered but is not completed or does not take place, the Court Auctioneer is entitled only to his actual expenses, the amount whereof is to

be determined by the Court; and that the underlying principle, as explained in United Bank Limited v. C.M. Sarwar, Advocate (PLJ 2004 SC 213), is that commission becomes due only on completion of the auction, which is not complete until approved or confirmed by the Court, so that in the absence of a completed sale entitlement is confined to actual expenses. Reliance was also placed on Bank Equity Limited v. Qand Ghar Limited (2005 CLD 711). The amount claimed was an estimate, the applicant himself having said that details would follow with the auction report, and no itemised account, invoices or receipts were produced. The remuneration and valuation fee having already been fixed, any further claim under those heads required a distinct lawful basis and could not duplicate what was already determined. Order XXI Rules 65, 66 and 67 CPC provide the framework for conducting an execution sale and publishing the proclamation but do not create an automatic entitlement to an advance, and the mere filing of an affidavit does not establish the incurrence, necessity or reasonableness of the expenditure. The Court left the applicant free to submit, on completion of the auction-related work, an itemised statement of actual and necessary expenses supported by documentary evidence for determination under Rule 22(iv), with publication charges to be considered under Order XXI Rule 67 CPC.

LEGAL SIGNIFICANCE

A practical ruling for execution and banking practice, where auctioneers routinely seek large advances from decree-holder banks. It confirms that Rule 22(iv) permits only actual expenses determined by the Court, that an affidavit of estimated expenditure proves nothing, that heads already covered by a fixed remuneration or valuation fee cannot be claimed again, and that publication charges are costs of the sale recoverable on completion rather than an advance payable as of right.

LEGAL PROPOSITIONS (VERBATIM)

— Keeping in view the circumstances of the case, it is important to mention here that Rule 22(iv) ibid specifically provides that where an auction sale is ordered but is not completed or does not take place, the Court Auctioneer shall be entitled only to his actual expenses, subject to determination by the Court.

— The underlying principle is that the Court Auctioneer's entitlement must be determined in accordance with the applicable Rules and on the basis of expenses actually incurred, rather than on the basis of an unsubstantiated estimate.

— Thus, the amount presently claimed is only an estimate of anticipated expenditure and is not supported by any itemised account, invoices, receipts or other material establishing that the claimed expenses have actually been incurred.

— Furthermore, the remuneration of the applicant and the valuation fee having already been fixed by this Court, any further claim under these heads must be supported by a distinct and lawful basis

— Likewise, although Order XXI, Rules 65, 66 and 67 CPC provide the legal framework for conducting an execution sale and publishing the sale proclamation, these provisions do not, by themselves, establish an automatic entitlement in favour of the Court Auctioneer to receive an advance of Rs.1,500,000/- without furnishing particulars and supporting material. The mere filing of an affidavit does not establish the actual incurrence, necessity or reasonableness of the expenditure claimed.

— This, however, shall not preclude him from submitting, upon completion of the relevant auction-related work, an itemised statement of actual and necessary expenses, supported by documentary evidence, for determination by this Court in accordance with Rule 22(iv) of the Rules and Orders.

LEGAL PRINCIPLES EXPOUNDED

Where an auction sale is ordered but not completed, the Court Auctioneer is entitled only to actual expenses, determined by the Court under Rule 22(iv) of the Rules and Orders.

Source: *Keeping in view the circumstances of the case, it is important to mention here that Rule 22(iv) ibid specifically provides that where an auction sale is ordered but is not completed or does not take place, the Court Auctioneer shall be entitled only to his actual expenses, subject to determination by the Court.*

Authority: *2026 LHC 8937, para 8, following United Bank Limited v. C.M. Sarwar, Advocate (PLJ 2004 SC 213)*

Entitlement rests on expenses actually incurred, not on an unsubstantiated estimate.

Source: *The underlying principle is that the Court Auctioneer's entitlement must be determined in accordance with the applicable Rules and on the basis of expenses actually incurred, rather than on the basis of an unsubstantiated*

estimate.

Authority: *2026 LHC 8937, para 8*

Heads already covered by a fixed remuneration or valuation fee cannot be claimed again without a distinct lawful basis.

Source: *Furthermore, the remuneration of the applicant and the valuation fee having already been fixed by this Court, any further claim under these heads must be supported by a distinct and lawful basis*

Authority: *2026 LHC 8937, para 9*

Order XXI Rules 65 to 67 CPC regulate the sale and its proclamation but create no automatic right to an advance, and an affidavit alone does not establish incurrence, necessity or reasonableness.

Source: *Likewise, although Order XXI, Rules 65, 66 and 67 CPC provide the legal framework for conducting an execution sale and publishing the sale proclamation, these provisions do not, by themselves, establish an automatic entitlement in favour of the Court Auctioneer to receive an advance of Rs.1,500,000/- without furnishing particulars and supporting material. The mere filing of an affidavit does not establish the actual incurrence, necessity or reasonableness of the expenditure claimed.*

Authority: *2026 LHC 8937, para 9*

OPERATIVE ORDER

Consequently, the instant application, being premature and unsupported by proof of actual expenditure, is dismissed. ... Re-list on 26.11.2026.

■ **View Full Judgment**

INSURANCE — MARINE CARGO CLAIM — LIMITATION UNDER ARTICLE 86(B) LIMITATION ACT, 1908 — SUBROGATION — PRINCIPLE AGAINST DOUBLE RECOVERY — SECTION 118 INSURANCE ORDINANCE, 2000

Wire Manufacturing Industry Limited v. Habib Insurance Company Limited and others

APPROVED FOR REPORTING

2026 LHC 8930 (R.F.A. No. 29826 of 2024) · Bench: Ch. Sultan Mahmood and Malik Waqar Haider Awan, JJ · Decided: 5 November 2026 · Uploaded: 19 November 2026 (straggler)

FACTS

The appellant purchased 25,000 kilograms of lead ingots for USD 35,000, paid through SAMBA Bank Limited. Habib Insurance issued an Open Marine Insurance Policy dated 7 March 2017 covering transportation from China to Karachi, the consignment being shipped under a bill of lading dated 28 March 2017 with an original seal. On arrival at Port Qasim the container bore a different seal and weighed only 11,140 kilograms against the declared 25,000; a joint survey showed the container was empty. The appellant pursued the insurer by telephone and emails from 30 April 2017 without result, and complained to the Federal Insurance Ombudsman on 17 September 2017; that complaint was dismissed on 12 April 2019 on the ground of alleged pursuit of double benefits. Maersk Line had paid the appellant USD 35,000 on 24 November 2017 against the same loss, a payment that was not disputed. The appellant then filed an insurance application on 19 December 2020 for Rs.6,284,213 with liquidated damages under section 118 of the Insurance Ordinance, 2000. The Insurance Tribunal dismissed the suit on 22 March 2024 as barred by limitation and as an attempt at double recovery.

LEGAL ISSUE

Whether limitation under Article 86(b) of the Limitation Act, 1908 runs from the date of loss or from the insurer's communication of refusal to honour the claim; and whether an assured who has already been indemnified by the carrier for the same loss may recover again from the insurer, having regard to the doctrine of subrogation and the principle against double recovery.

HOLDING

The appeal was dismissed, but the Tribunal's finding on limitation was set aside. On limitation, following State Life Insurance Corporation v. Mst. Safia Begum (2001 CLC 408) and State Life Insurance Corporation v. Mst.

Kausar Jehan Begum (1982 CLC 1658), time runs from the date on which the insurer communicates its refusal to honour the claim rather than from the occurrence of the loss; the proceedings before the Federal Insurance Ombudsman having culminated on 12 April 2019 and the insurance petition having been instituted on 19 December 2020, the claim was within three years. On the merits, the Court rejected the argument built on Danish Elahi v. Mariam Kamran (PLD 2022 Sindh 362), distinguishing section 92 of the Transfer of Property Act from section 135-A, and set out the ingredients of subrogation in marine insurance from Lord Napier and Ettrick v. Hunter [1993] 2 WLR 42: the right arises automatically in favour of the insurer on payment, the assured must not prejudice it, he cannot compromise against the wrongdoer without the insurer's consent after indemnity, and recovery from the wrongdoer goes first to the insurer's entitlement. Subrogation therefore gives the insurer a right against the carrier; it gives an already indemnified assured no basis to claim from the insurer. The Court then applied the principle against double recovery as enunciated in Castellain v. Preston (1883) 11 Q.B.D. 380 and explained in Gatwick v. Liberty Mutual [2026] 3 All ER 803, under which it makes no difference whether the third party's payment precedes or follows indemnification by the insurer: in the first case the insurer's liability is reduced to that extent and in the second the insured must account to the insurer, subject to an equitable lien. Having received USD 35,000 from the shipping company for the very loss insured, the appellant stood compensated and could not recover a second indemnity.

LEGAL SIGNIFICANCE

A substantial addition to Pakistani marine insurance law. It settles that Article 86(b) limitation in an insurance claim runs from refusal, not loss — valuable where an assured has spent years before the Insurance Ombudsman — while confirming that the contract of insurance is one of indemnity only, so that an assured already paid by the carrier cannot claim again. The judgment adopts the ingredients of subrogation from Lord Napier and Ettrick and applies the recent United Kingdom Supreme Court decision in Gatwick v. Liberty Mutual on the irrelevance of the timing of third-party compensation.

LEGAL PROPOSITIONS (VERBATIM)

— In view of the principles laid down in the judgments referred to above, the period of limitation is to be reckoned from the date on which the insurer communicates its refusal to honour the claim, rather than merely from the date of occurrence of the loss.

— In plain terms, upon payment of the insurance claim, the insurer becomes entitled to pursue recovery against the carrier, notwithstanding that the insurer was not a party to the contract of carriage but this doctrine does not provide any basis to an indemnified assured person to seek indemnification from the insurer. Rather recognizes a right of the insurer in marine insurance to be indemnified by the tort-feasor.

— There is another concept which is principle of double recovery, which states that the insured may not recover more than a full indemnity

— It further observed that where, at the time of the loss, a contract exists between the insured and a third party, and such contract is duly fulfilled by the third party, no right of action arises to which the insurer could become subrogated.

— Thus, the insurer's entitlement to the benefit of a payment received from a third party does not depend upon whether such payment is received before or after indemnification by the insurer.

— The very foundation, in our opinion, of every rule which has been applied to insurance law is this, namely, that the contract of insurance is a contract of indemnity, and of indemnity only

— However, having already received USD 35,000 from the shipping company against the very loss forming the subject matter of the insurance claim, the appellant stand compensated and the principle of double recovery is attracted in this case

— The appellant, having already received full compensation for the loss, cannot claim a second indemnity under the insurance policy.

LEGAL PRINCIPLES EXPOUNDED

Limitation under Article 86(b) of the Limitation Act, 1908 runs from the insurer's communication of refusal to honour the claim, not from the occurrence of the loss.

Source: *In view of the principles laid down in the judgments referred to above, the period of limitation is to be reckoned from the date on which the insurer communicates its refusal to honour the claim, rather than merely from the date of occurrence of the loss.*

Authority: *2026 LHC 8930, para 7, following State Life Insurance Corporation v. Mst. Safia Begum (2001 CLC 408) and State Life Insurance Corporation v. Mst. Kausar Jehan Begum (1982 CLC 1658)*

Subrogation confers a right on the insurer against the carrier upon payment; it gives an already indemnified assured no claim against the insurer.

Source: *In plain terms, upon payment of the insurance claim, the insurer becomes entitled to pursue recovery against the carrier, notwithstanding that the insurer was not a party to the contract of carriage but this doctrine does not provide any basis to an indemnified assured person to seek indemnification from the insurer. Rather recognizes a right of the insurer in marine insurance to be indemnified by the tort-feasor.*

Authority: *2026 LHC 8930, para 9, adopting Lord Napier and Ettrick v. Hunter [1993] 2 WLR 42*

The insured may not recover more than a full indemnity; where a contract with a third party existing at the time of loss is duly performed, no right of action arises to which the insurer could be subrogated.

Source: *It further observed that where, at the time of the loss, a contract exists between the insured and a third party, and such contract is duly fulfilled by the third party, no right of action arises to which the insurer could become subrogated.*

Authority: *2026 LHC 8930, para 10, on Castellain v. Preston (1883) 11 Q.B.D. 380*

The insurer's entitlement to the benefit of a third-party payment does not depend on whether that payment precedes or follows indemnification.

Source: *Thus, the insurer's entitlement to the benefit of a payment received from a third party does not depend upon whether such payment is received before or after indemnification by the insurer.*

Authority: *2026 LHC 8930, para 11, applying Gatwick v. Liberty Mutual [2026] 3 All ER 803*

A contract of insurance is a contract of indemnity and of indemnity only, so an assured already fully compensated cannot claim a second indemnity.

Source: *The appellant, having already received full compensation for the loss, cannot claim a second indemnity under the insurance policy.*

Authority: *2026 LHC 8930, para 15*

OPERATIVE ORDER

In the circumstances, the appellant has failed to establish that the impugned judgment suffers from any illegality, misreading or non-reading of the record warranting interference by this Court. ... The findings recorded by the learned Tribunal, therefore, call for no interference. Consequently, the instant appeal, being devoid of merit, is dismissed.

■ **View Full Judgment**

Sindh High Court

3 judgments

CONSTITUTIONAL LAW — PUBLIC INTEREST LITIGATION — UNEXECUTED PUBLIC PROJECT — ESTABLISHMENT OF A GOVERNMENT MEDICAL COLLEGE AT MIRPURKHAS — PM&DC THREE-YEAR MORATORIUM OF 5 JANUARY 2025 AND ITS TERRITORIAL EXCLUSIONS — LIMITS OF JUDICIAL INTERVENTION IN POLICY

Mir Pervez Akhtar Talpur and another v. Province of Sindh and others

APPROVED FOR REPORTING

2026 SHC MPK 2281 (Constitutional Petition No. S-661 of 2025) · Bench: Zulfiqar Ali Sangi and Nisar Ahmed Bhanbhro, JJ (Nisar Ahmed Bhanbhro, J, author) · Decided: 19 November 2026 · Uploaded: 19 November 2026 (straggler)

FACTS

Two practising lawyers petitioned for directions to the Government of Sindh to make functional a Government Medical College at Mirpurkhas, approved in 2012 at an estimated cost of Rs.2,049 million, for release of funds, and for a declaration that conversion of the existing infrastructure to any other use would be unlawful. The Secretary to Government of Sindh replied that the project had been initiated by appointing a Project Director, that in 2018, pursuant to the Water Commission's directives, it was handed over to the Works & Services Department, that the revised estimate had been included in the Annual Development Programme for 2025-26 at serial 1068, and that the college could not become functional because the Pakistan Medical & Dental Council, by notification dated 5 January 2025, had imposed a three-year moratorium on the establishment of new medical and dental colleges. A letter of the PM&DC dated 19 February 2025, placed on record by the health department, showed that the moratorium did not apply to FATA, Balochistan, Tharparkar and Gilgit Baltistan.

LEGAL ISSUE

Whether the Court could direct the Provincial Government to make functional a medical college approved and substantially constructed but left unexecuted for fourteen years, given that establishment of a medical college lies in the policy domain, and whether the PM&DC moratorium of 5 January 2025 applied to Mirpurkhas.

HOLDING

The petition was allowed. The Court began from the position that establishment of a medical college falls within the policy domain and that courts interfere sparingly, since doing otherwise would amount to judicial legislation and erode institutional autonomy: courts interpret a scheme as framed rather than re-engineer it according to perceived notions of equity or convenience, and unless the omission complained of violates a constitutional or statutory command the Court cannot compel an institution to adopt a policy or grant a concession not contemplated by its own governing framework. On the facts, however, a project approved in 2012 and almost complete by 2018 had remained unexecuted for a considerable period despite the utilisation of hefty public funds, so a case for indulgence was made out. On the moratorium, the letter dated 19 February 2025 excluded Tharparkar; as a matter of record Mirpurkhas was part of Tharparkar District from 1947 until 31 October 1990, when three districts — Tharparkar, Mirpurkhas and Umerkot — were formed out of the Tharparkar region, and Mirpurkhas is presently the Divisional Headquarter of that region, so the moratorium does not apply to it. The respondents were directed to establish the college and ensure that academic activities commence from the academic year 2028, with seats to be allocated independently of those already allocated to other public-sector medical colleges of Sindh.

LEGAL SIGNIFICANCE

An instructive illustration of where the line falls between non-interference in policy and enforcement of an executive decision already taken and funded. The Court does not direct the Government to adopt a policy; it holds the Government to a project it approved, built and left idle, and resolves the regulatory obstacle by construing the PM&DC moratorium's territorial exclusion for the Tharparkar region to cover Mirpurkhas. Useful authority on unexecuted public development projects and on the reading of regulatory notifications containing area-based exclusions.

LEGAL PROPOSITIONS (VERBATIM)

> *— Though establishment of a medical college falls within the policy domain of the Government and Court sparingly interferes into the policy matters. Doing so would amount to judicial legislation and would erode the*

institutional autonomy that underpins administrative efficacy.

— Courts are to interpret the scheme as framed, not to re-engineer it according to perceived notions of equity or convenience.

— Unless the omission complained of violates a constitutional or statutory command, the Court cannot compel an institution to adopt a policy or grant a concession not contemplated by its own governing ... framework.

— The principle of institutional autonomy thus guards against judicial overreach, ensuring that policy formation remains the prerogative of the executive, and that courts confine themselves to ensuring legality, rationality, and procedural fairness within the limits set by law.

— In the instant case the Medical College at Mirpurkhas was approved in the year 2012, and its construction was almost completed by the year 2018 but remained un-executed for a considerable period despite of utilization of hefty public funds, therefore a case for indulgence of this Court is made out.

— Presently, Mirpurkhas is the Divisional Headquarter of the Tharparkar region, as such notification dated 19th February, 2025 reflects that decision made on 05th January 2025 by the PM&DC does not apply to the Tharparkar region as Mirpurkhas is part of the same.

LEGAL PRINCIPLES EXPOUNDED

Courts interpret a scheme as framed and do not re-engineer it according to perceived notions of equity or convenience.

Source: *Courts are to interpret the scheme as framed, not to re-engineer it according to perceived notions of equity or convenience.*

Authority: *2026 SHC MPK 2281, para 8*

Absent breach of a constitutional or statutory command, a court cannot compel an institution to adopt a policy or grant a concession outside its own governing framework.

Source: *Unless the omission complained of violates a constitutional or statutory command, the Court cannot compel an institution to adopt a policy or grant a concession not contemplated by its own governing*

Authority: *2026 SHC MPK 2281, para 8*

Institutional autonomy leaves policy formation to the executive and confines courts to legality, rationality and procedural fairness.

Source: *The principle of institutional autonomy thus guards against judicial overreach, ensuring that policy formation remains the prerogative of the executive, and that courts confine themselves to ensuring legality, rationality, and procedural fairness within the limits set by law.*

Authority: *2026 SHC MPK 2281, para 8*

Where an approved and substantially completed public project has remained unexecuted despite the utilisation of substantial public funds, a case for judicial indulgence is made out.

Source: *In the instant case the Medical College at Mirpurkhas was approved in the year 2012, and its construction was almost completed by the year 2018 but remained un-executed for a considerable period despite of utilization of hefty public funds, therefore a case for indulgence of this Court is made out.*

Authority: *2026 SHC MPK 2281, para 8*

The PM&DC moratorium of 5 January 2025 does not apply to the Tharparkar region, of which Mirpurkhas forms part.

Source: *Presently, Mirpurkhas is the Divisional Headquarter of the Tharparkar region, as such notification dated 19th February, 2025 reflects that decision made on 05th January 2025 by the PM&DC does not apply to the Tharparkar region as Mirpurkhas is part of the same.*

Authority: *2026 SHC MPK 2281, para 7*

OPERATIVE ORDER

For the foregoing, case for indulgence is made out, the instant petition is allowed. The Respondents directed to establish the proposed Government Medical College at Mirpurkhas and ensure that the academic activities in the college commence from the academic year 2028, for which all requisite arrangements shall be made by the Health Department Government of Sindh. It is further clarified that, in view of the letter dated 19th February, 2025, issued by the PM&DC, the moratorium on the establishment of new medical colleges and enhancement of seats shall not apply to the Tharparkar region, including Mirpurkhas. Therefore, the Government of Sindh shall allocate seats to the new college independently of the seats already allocated to other public-sector medical colleges of Sindh.

■ View Full Judgment

SERVICE LAW — RECRUITMENT IN BPS-1 TO 15 — RULE 5 OF THE SINDH CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1974 — MANDATORY DEPARTMENTAL SELECTION COMMITTEE — OFFER LETTERS ISSUED WITHOUT RECOMMENDATION — LACHES

Naeem Hussain and 79 others v. Province of Sindh and others

APPROVED FOR REPORTING

2026 SHC MPK 2280 (Constitutional Petition No. S-593 of 2024) · Bench: Zulfiqar Ali Sangi and Nisar Ahmed Bhanbhro, JJ (Nisar Ahmed Bhanbhro, J, author) · Decided: 19 November 2026 · Uploaded: 19 November 2026 (straggler)

FACTS

Pursuant to an advertisement by the District Health Officer, Mirpurkhas, the petitioners applied for posts in BPS-1 to BPS-15 and appeared in walk-in interviews on 25, 26 and 27 March 2013. They were declared successful and offer letters, with physical fitness certificates, were issued. By letter dated 4 June 2015 the Government of Sindh granted permission for the appointments, but by letter dated 2 July 2015 that permission was cancelled and the recruitment process declared illegal. The State's case was that the District Health Officer had initiated the process without permission of the competent authority and without constituting the District Level Selection Committee headed by the Deputy Commissioner required by Rule 5 of the APT Rules; that a departmental inquiry found him guilty, an FIR was lodged against him and he was penalised with two years' stoppage of increments. The petitioners filed the petition in 2018, about three years after cancellation, relying on a judgment of 14 September 2017 of another Division Bench in C.P. No. D-1644 of 2015.

LEGAL ISSUE

Whether candidates who received offer letters from a District Health Officer acting without the recommendation of the Departmental Selection Committee required by Rule 5 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 acquired any enforceable right to appointment; and whether the petition, filed three years after cancellation of the process, was barred by laches.

HOLDING

The petition was dismissed on both grounds. On laches, the offer letters were issued in June 2015 and the process cancelled in July 2015, yet the petition was filed in 2018 without explanation; laches does not by itself defeat proceedings merely for delay, but where the delay is not properly explained a person may be disentitled from seeking a remedy. The earlier Division Bench judgment relied upon was distinguishable, since there the entire process had been conducted through a selection committee and appointment letters had issued. On merits, recruitment to BPS-1 to 15 at district level is subject to the recommendation of the District Level Committee headed by the Deputy Commissioner with the head of the concerned department and a representative of SGA&CD; admittedly no such recommendation existed, the petitioners' case was never placed before the Committee, and the appointment letters issued by the District Health Officer on his own were beyond his official capacity and a blatant violation of Rule 5, so the Government of Sindh rightly scrapped the process. The Court added that recruitment is an administrative and internal departmental affair in which it interferes only where the authority has acted in violation of law resulting in a miscarriage of justice, that an appointment made in departure from law and rules cannot sustain, and that the petitioners could not have an illegal appointment stamped by the Court's process.

LEGAL SIGNIFICANCE

A useful bar against the familiar claim founded on an offer or fitness letter issued by a departmental head who lacked authority. It confirms that the Rule 5 selection-committee recommendation is a condition of a valid district-level appointment in Sindh, that a letter issued without it is beyond the officer's capacity and confers no right, and that unexplained delay of years in approaching the Court will itself disentitle relief.

LEGAL PROPOSITIONS (VERBATIM)

— Though laches itself did not constitute a ground to defeat the proceedings solely on the ground of delay, yet, if the delay is not properly explained, a person may be dis-entitled from seeking a remedy against an act.

— Admittedly in case of petitioners no such recommendation by the Selection Committee is available, contrary the case of the petitioners was never placed before Selection Committee and the appointment letters were issued by D.H.O, Mirpurkhas by its own, thus were beyond his official capacity and a blatant violation of Rule 5 of APT Rules.

— The recruitment in every department at District Level is subject to the recommendation of the Selection Committee.

— Recruitment in Government Departments is purely an administrative and internal affair of the concerned department, and this Court sparingly interferes with such departmental powers and merely in the cases where authority has acted in violation of law that resulted in miscarriage of justice.

— The petitioners, through the instant petition, intend to seek their illegal appointments stamped by the Court's process which cannot be permitted.

LEGAL PRINCIPLES EXPOUNDED

Laches alone does not defeat proceedings, but unexplained delay may disentitle a person from relief.

Source: *Though laches itself did not constitute a ground to defeat the proceedings solely on the ground of delay, yet, if the delay is not properly explained, a person may be dis-entitled from seeking a remedy against an act.*

Authority: *2026 SHC MPK 2280, para 5*

District-level recruitment in BPS-1 to 15 is subject to the recommendation of the Selection Committee constituted under Rule 5 of the APT Rules, 1974.

Source: *The recruitment in every department at District Level is subject to the recommendation of the Selection Committee.*

Authority: *2026 SHC MPK 2280, para 7*

Appointment letters issued by a departmental head without the Committee's recommendation are beyond his official capacity and in blatant violation of Rule 5.

Source: *Admittedly in case of petitioners no such recommendation by the Selection Committee is available, contrary the case of the petitioners was never placed before Selection Committee and the appointment letters were issued by D.H.O, Mirpurkhas by its own, thus were beyond his official capacity and a blatant violation of Rule 5 of APT Rules.*

Authority: *2026 SHC MPK 2280, para 7*

Recruitment is an internal administrative affair in which the Court interferes only where the authority has acted in violation of law resulting in a miscarriage of justice, and an unlawful appointment cannot be validated by the Court's process.

Source: *The petitioners, through the instant petition, intend to seek their illegal appointments stamped by the Court's process which cannot be permitted.*

Authority: *2026 SHC MPK 2280, para 8*

OPERATIVE ORDER

For the foregoing reasons, no case for indulgence is made out. The instant petition, being devoid of merits, is dismissed along with pending applications, with no order as to costs.

■ **View Full Judgment**

RIGHT TO INFORMATION — SINDH TRANSPARENCY AND RIGHT TO INFORMATION ACT, 2016 — SECTIONS 8(2), 9, 11 AND 17 — ARTICLE 19-A — ADEQUACY OF DESCRIPTION IN AN INFORMATION REQUEST — BAR ON COURT PROCEEDINGS AGAINST A DECISION OF THE INFORMATION COMMISSION

Mst. Durdana Ansari v. Province of Sindh and others

APPROVED FOR REPORTING

2026 SHC MPK 2256 (Constitutional Petition No. S-644 of 2025) · Bench: Zulfiqar Ali Sangi and Nisar Ahmed Bhanbhro, JJ (Nisar Ahmed Bhanbhro, J, author) · Decided: 17 November 2026 · Uploaded: 17 November 2026 (straggler)

FACTS

The petitioner, a lawyer, sought the record of rights in respect of land granted to her father-in-law, Mr. Ismail Haji Chandi Wala, from 1959 onwards. Receiving no response from the Revenue authorities, she filed Complaint No. 52 of 2024 before the Sindh Information Commission under sections 8 and 11 of the Act. The Commission entertained the complaint, by order dated 26 February 2024 appointed the Mukhtiarkar (Revenue), Tando Adam as the designated officer and directed him to transmit the information; he submitted a report dated 13 May 2024, which the Commission communicated to the petitioner on 14 May 2024. Dissatisfied, she filed an internal review under section 9 and then a complaint under section 11, which was dismissed as deficient under section 8(2), and the complaint was finally disposed of by order dated 1 October 2024. She then petitioned the High Court, having been directed by order dated 2 September 2026 to satisfy the Court on maintainability.

LEGAL ISSUE

Whether a decision of the Sindh Information Commission under the Sindh Transparency and Right to Information Act, 2016 can be challenged by constitutional petition notwithstanding section 17 of the Act; and whether a request for information that does not adequately describe the information sought satisfies section 8(2).

HOLDING

The petition was dismissed in limine as without merit and not maintainable. The Court held that the Act was enacted to give effect to Article 19-A and to provide access to information in the possession of public bodies. On the record, the requisite information regarding the land had been provided to the petitioner on the material available to the Commission, and her own application was vague and fell short of the standards set by the Act: she claimed information regarding grants in favour of M. Ismail without specifying the properties, whereas section 8(2) requires the applicant to provide an adequate description of the information and the details necessary to provide it. When confronted with that material, counsel could point to no infirmity in the impugned order. Further, section 17 bars any court from entertaining a suit, application or other proceeding in respect of a decision made under the Act, which may be questioned only by internal review or complaint under the Act. The petitioner having availed those remedies, the Commission's decision was final and could not be challenged in writ jurisdiction; the Commission was created for the limited purpose of providing information held by public bodies, a standard for which is fixed by statute, and failing that standard it can take no action.

LEGAL SIGNIFICANCE

The first reported treatment of section 17 of the Sindh Transparency and Right to Information Act, 2016 as a bar to writ jurisdiction over decisions of the Information Commission, and of section 8(2) as imposing a real burden of specificity on the applicant. It confirms that Article 19-A does not dispense with the statutory standard of description, that a request naming a person without identifying the properties is insufficient, and that the Commission cannot be dragged before the courts once the internal review and complaint remedies have been exhausted.

LEGAL PROPOSITIONS (VERBATIM)

> *— From the contents of application moved by the Petitioner, it is noticed that the same was vague and fell short of the standards set forth under the Act.*
>
> *— Petitioner claimed information regarding grants in favor of M. Ismail, without specificity the properties.*

— Section 8(2) of the Act required Petitioner to provide adequate description of the information and the details necessary to provide the requisite information.

— Besides, Section 17 of the Act bars the entertainment of any proceedings in respect of a decision made under the Act, otherwise than by way of an internal review or a complaint under the Act.

— Since the petitioner has already availed the remedies available under the law and the decision of the Information Commission is final in nature and cannot be challenged under the jurisdiction of this Court through a writ petition, as the purpose of the Commission was to provide information to the individuals regarding the records held by the public bodies and for that reason a standard has been fixed under the statute, failing whereof, commission cannot take any action.

— Dragging the Commission before the Courts would not serve any purpose, as it was created for a limited purpose and its decisions has got protection under the statute.

— The object and purpose of the legislation to promulgate the above Law was to provide access to information in possession of public bodies, including information contained in memorandum, books, reports, orders, notifications and other relevant documents etc.

LEGAL PRINCIPLES EXPOUNDED

Section 8(2) of the Act requires the applicant to give an adequate description of the information and the details necessary to provide it; a request naming a grantee without specifying the properties is vague and falls short of the statutory standard.

Source: *Section 8(2) of the Act required Petitioner to provide adequate description of the information and the details necessary to provide the requisite information.*

Authority: *2026 SHC MPK 2256, para 9*

Section 17 bars any court from entertaining proceedings in respect of a decision made under the Act, which may be questioned only by internal review or complaint under the Act.

Source: *Besides, Section 17 of the Act bars the entertainment of any proceedings in respect of a decision made under the Act, otherwise than by way of an internal review or a complaint under the Act.*

Authority: *2026 SHC MPK 2256, para 10*

Once the statutory remedies have been availed, the Commission's decision is final and not open to challenge in writ jurisdiction.

Source: *Since the petitioner has already availed the remedies available under the law and the decision of the Information Commission is final in nature and cannot be challenged under the jurisdiction of this Court through a writ petition, as the purpose of the Commission was to provide information to the individuals regarding the records held by the public bodies and for that reason a standard has been fixed under the statute, failing whereof, commission cannot take any action.*

Authority: *2026 SHC MPK 2256, para 11*

The Commission was created for a limited statutory purpose and its decisions enjoy statutory protection.

Source: *Dragging the Commission before the Courts would not serve any purpose, as it was created for a limited purpose and its decisions has got protection under the statute.*

Authority: *2026 SHC MPK 2256, para 11*

OPERATIVE ORDER

For the foregoing, no case for indulgence is made out, the instant petition being without merits and not maintainable is dismissed in liminie along with pending applications, with no order as to costs.

■ **View Full Judgment**