

FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate/Jurisdiction)

Present:

Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

F.C.P.L.A.2010/2026

*(On appeal against the judgment dated 30.06.2026
passed by the Circuit Court Larkana High Court of Sindh,
in C.P No. S-117/2026)*

Munir Samo

...Petitioner

Versus

Peer Bux and others

...Respondents

For the Petitioner(s) : Mr. Zafar Iqbal Kashi ASC

For the Respondent(s) : Mr. Ahsan Hameed Dogar Addl, AG,
Sindh along with Muhammad Adil Awan,
DSP and Munir Ahmad Samo, Inspector
Larkana

Date of Hearing : 02.10.2026

JUDGMENT

Rozi Khan Barrech, J.- The petition, having been granted leave to appeal, calls in question the judgment dated 30.06.2026 (hereinafter referred to as the (“**impugned judgment**”) passed by the learned High Court of Sindh, Circuit Court, Larkana (hereinafter referred to as the “**High Court**”) in C.P. No. S-117/2026, whereby the learned High Court issued the following directions, which are reproduced for convenience and ready reference:

“The Deputy Inspector General of Police, Special Branch, Karachi, is directed to relieve SIP Munir Samo from the Special Branch forthwith. The inspector General of police, Sindh, shall close him at the Karachi for a period of one year. During the said period, he shall not be assigned any operational or filed duties while the disciplinary action shall also be taken against him, under the information of this court through additional Registrar.

Let the copy of this order be communicated to the (i) Secretary, Establishment Division, Government of Pakistan, Islamabad, (ii) the Inspector General Police, Karachi, (iv) the Deputy Inspector General of Police, Larkana Range, and (v) the Senior Superintendent of Police, Larkana, for information and strict compliance.”

2. We have heard the learned counsel for the parties, the learned Additional Advocate General, Sindh and have examined the record with their able assistance.

3. The brief facts giving rise to the present proceedings are that the petitioner contended that he has served the Police Department with dedication and professionalism and has earned recognition and respect in lieu of rendering dedicated services at various locations and on important positions. Further contended the petitioner served in the Special Branch of the Police Department. The principal function of the Special Branch of Sindh Police is to collect intelligence concerning various criminal gangs and to transmit such Intelligence Reports (**IRs**) to the senior police authorities, enabling the Operation Wings of the Police to take appropriate legal action. The petitioner has challenged the impugned orders dated 30th June 2026, which were issued subsequent to the submission of the Inquiry Report conducted by Ahmed Faisal Choudhary, SSP Larkana, into the matter in compliance with the order dated 16th April 2026.

4. The principal legal question requiring determination is whether the adverse directions issued against the petitioner by the High Court were supported by the findings and recommendations of the inquiry conducted pursuant to its earlier direction, and whether the High Court duly considered the Inquiry Report before directing further administrative or disciplinary action against the petitioner. In order to determine the aforesaid question, it is necessary to examine the relevant record and the sequence of proceedings before the learned High Court. Perusal of the record reveals that, initially, the matter was disposed of vide order dated 16-04-2026, whereby the learned High Court directed the DIGP, Larkana Range, to conduct an inquiry into the matter and disposed of the petition accordingly. Subsequently, the learned High Court took up the matter upon another M.A. No. 473/2026 and fixed it for hearing on 19-06-2026. The learned High Court perused the Inquiry Report dated 24-04-2026, conducted by the DSP/SDPO Saddar, Larkana. Thereafter, vide order dated 19-06-2026, the learned High Court expressed its dissatisfaction with the manner in which the earlier inquiry had been conducted and observed as follows:

“So far as the report submitted by the DIGP, Larkana Range, is concerned, it transpires that the inquiry was entrusted to DSP/SDPO Saddar, a one-sided manner, whereas the DIGP, Larkana Range, was required to conduct the enquiry himself strictly in terms of the directions issued by this court.

Accordingly, the matter is entrusted to the SSP, Larkana, with directions to conduct a fair, impartial and comprehensive enquiry against SIP Nurir Samo,

Crime Branch, and Gunman Wajid Ali son of Safeer Ali Samo, and submit a detail report before this court on or before the next date of hearing.

Till submission of the report, both officials shall not be assigned any field posting for a period of at least one year.”

Pursuant to the aforesaid direction, the Inquiry Officer conducted the proceedings and, in concluding paragraph No. (iv) of the Inquiry Report, specifically adverted to the grievance of respondent No.1 (Peer Bux) against the petitioner. The relevant portion thereof is reproduced for ready reference:

“iv) In fact, the petitioner’s actual grievance is against Inspector Munir Ahmed Samo for generating IRs against him based on false allegations of narcotics selling. Although this petition was moved by the petitioner, his actual grievance was not properly incorporated in either his initial application or the instant petition. Furthermore, the petitioner failed to join the enquiry conducted by the DSP/SDPO Saddar, Larkana, despite being provided ample opportunity. Instead, he approached this honourable court by making exaggerated and contradictory allegations. Had he joined the previous enquiry conducted by the DSP/SDPO Saddar and disclosed the actual facts, his grievance could have been redressed at the time.”

Moreover, it is pertinent to mention here that the learned High Court, however, also appears to have overlooked the findings and recommendations contained in the subsequent Inquiry Report, while issuing adverse directions against the petitioner, particularly paragraph No. 3 thereof. The relevant portion of the recommendation to the extent of petitioner is reproduced for ready reference:

“3. The specific role of Inspector Munir Ahmed Samo was examined, and the only role determined is that he was a Group Officer responsible for issuing the IRS. No role regarding the alleged raid was established. Since this honourable Court has already ordered that the inspector Munir Ahmed Samo shall not be assigned any field posting for a period of at least one year, no further action is recommended against him at this stage.”

Emphasis Added

5. It is pertinent to note that the Inquiry Reports, having surfaced on the record itself, does not disclose any finding establishing the petitioner’s involvement in the alleged raid; rather, the specific role attributed to him was confined to that of a Group Officer responsible for issuing the **IRs**. More importantly, the Inquiry Officer expressly recorded that no further action was recommended against the petitioner at that stage. In the circumstances, the adverse directions issued against the petitioner, particularly in the face of the findings and recommendations emerging from the inquiry proceedings, require examination on the touchstone of the

principles of natural justice, procedural fairness, due process, and the constitutional guarantees embodied in Articles 4¹, 9², and 10-A³ and 14⁴ of the Constitution of Islamic Republic of Pakistan 1973 (**Constitution**).

The Inquiry Report, having formed part of the record before the learned High Court, assumes considerable significance in determining the legality and propriety of the adverse directions ultimately issued against the petitioner. A careful examination of the findings recorded therein does not disclose any material establishing the petitioner's involvement in the alleged raid or any other misconduct warranting the initiation of further disciplinary proceedings against him. On the contrary, the specific role attributed to the petitioner was confined to that of a Group Officer responsible for issuing the **IRs**, while no role whatsoever was found to have been established on his part in relation to the alleged raid. More significantly, the Inquiry Officer, after examining the specific role of the petitioner, expressly recorded that "no further action is recommended against him at this stage." The aforesaid finding assumes greater significance since the subsequent inquiry was itself ordered by the learned High Court after it had expressed dissatisfaction with the manner and scope of the earlier inquiry. Thus, the second inquiry was intended to provide an objective, fair and comprehensive examination of the allegations against the petitioner. Once such inquiry had been conducted pursuant to the direction of the Court and its findings were placed on the record, any adverse administrative or disciplinary consequence flowing therefrom was required to have a demonstrable nexus with the material and findings contained in the Inquiry Report and the being conducted in due process of the same. The exercise of jurisdiction by a constitutional court cannot be founded upon conjecture, assumption or considerations extraneous to the material placed before it, particularly where the consequence of such exercise is to visit a public servant with adverse service consequences.

¹⁴.Right of individuals to be dealt with in accordance with law, etc.____ (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.

(2) In particular____

(a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;

(b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and

(c) no person shall be compelled to do that which the law does not required him to do.

²⁹.Security of person. No person shall be deprived of life or liberty save in accordance with law.

^{310A}. Right to fair trial. For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.

⁴¹⁴. Inviolability of dignity of man, etc. (1) The dignity of man and, subject to law, the privacy of home, shall be inviolable.

(2) No person shall be subjected to torture for the purpose of extracting evidence.

6. In the circumstances, the directions issued against the petitioner, particularly those relating to his relieving from the Special Branch, restriction upon his posting and assignment of operational or field duties, and initiation of disciplinary action, fair opportunity to be heard, and proceeded require close scrutiny on the touchstone of legality, procedural fairness, natural justice, due process and the constitutional guarantees embodied in Articles 4, 9, 10-A and 14 of the Constitution. In this regard, the Federal Constitutional Court of Pakistan in its recent judgment titled *Muhammad Zulfiqar Abbasi and another v. the Director General Peshawar Development Authority, Peshawar and others* C.P.L.A No.2501/2024, and C.P.L.A 500-P/2024⁵ observed “the guilt or innocence can only be thrashed out from the outcome of inquiry and at the same time it is also required to be seen to whether due process of law or right to fair trial was followed or ignored which is a fundamental right as envisaged under Article 10-A of the Constitution” and held that “as recognized in the jurisprudence relating to lawful and fair departmental inquiries, the right to a proper inquiry and an effective opportunity of hearing is protected by Articles 4, and 10-A of the Constitution.” Likewise, the Supreme Court in the case of *Usman Ghani Vs the Chief Postmaster, GPO Karachi and others* (2022 SCMR 745), held that the foremost aspiration of conducting departmental inquiry is to find out whether a prima facie case of misconduct is made out against the delinquent officer for proceeding further. In the same vein, the Supreme Court in the case of *Raja Muhammad Shahid Vs the Inspector General of Police and others* (2023 SCP 142) held, “What is more, the principles of natural justice require that the delinquent should be afforded a fair opportunity to converge, give explanation and contest it before he is found guilty and condemned.” Accordingly, the sustainability of the impugned directions falls to be examined in the light of the role of the petitioner, Inquiry Report, the findings recorded therein, and the recommendation made by the Inquiry Officer. The record, however, demonstrates that the learned High Court, while issuing the impugned adverse directions against the petitioner, failed to duly consider the material findings and recommendation contained in the subsequent Inquiry Report, particularly the categorical finding that no role of the petitioner in the alleged raid had been established and that no further action was recommended against him at that stage. Such non-consideration of the material

⁵<https://www.fccp.gov.pk/download/eyJpdil6li91RExSUHhVWVFGNEILSWFFbmRITFE9PSIsInZhbHVlIjoITTZUYVR5VVIJZ2JybmVTSGFsQ0FsQT09liwibWFjIjoIMjEzNzI1YTFiZGEzYWJkNTMxNTI0YzQ1ZTc1Yzg0MWU1MWQ4NTI0MjAxOWU0MGI0MDc0ZDRmYmY1ZjI1N2Q5NyIsInRhZyI6Ij9>

findings of an inquiry conducted pursuant to the Court's own direction assumes significance and, we, therefore, hold that the impugned directions cannot be sustained to the extent that they transgress the permissible limits of judicial review and encroach upon the administrative domain of the competent executive authorities in the given circumstances of the *lis*.

7. Moreover, we now turn into the second important question of law, namely: Whether the High Court, in exercise of its constitutional jurisdiction under Article 199, can substitute itself for the competent executive authority in matters of posting, deployment and disciplinary control of a government/civil servant, or whether such exercise amounts to an impermissible assumption of executive functions? The Constitution is based on the well-known principle of trichotomy of powers where legislature is vested with the function of law making, the executive with its enforcement and judiciary of interpreting the law. It is important to state here that the framing of the policy, the rules of business and dealing with the day-to-day affairs thereunder, admittedly, fall in the executive domain. In the same vein, the Supreme Court in the case of Executive District Officer (Revenue), District Khushab At Jauharabad and others v. Ijaz Hussain and another 2012 PLC (C.S.) 917 as it was held that:-

“The principle of trichotomy of powers is one of the foundational values of Constitution of Pakistan and over a passage of time, this Court in several judgments has reiterated its importance as a norm of constitutional law. In Dr. Mobashir Hassan v. Federation of Pakistan (PLD 2010 SC 265), the Court at page 347 held as follows:--

“It is also to be borne in mind that Constitution envisages the trichotomy of powers amongst three organs of the State, namely the legislature, executive and the judiciary. The legislature is assigned the task of law making, the executive to execute such law and the judiciary to interpret the laws. None of the organs of the State can encroach upon the field of the others. [State v. Ziaur Rahman (PLD 1973 SC 49), Federation of Pakistan v. Saeed Ahmad Khan (PLD 1974 SC 151), Government of Balochistan v. Azizullah Memon (PLD 1993 SC 341), Mahmood Khan Achakzai v. Federation of Pakistan (PLD 1997 SC 426), Liaquat Hussain v. Federation of Pakistan (PLD 1999 SC 504), Syed Zafar Ali Shah v. General Pervez Musharraf (PLD 2000 SC 869), Nazar Abbas Jaffri v. Secy: Government of the Punjab (2006 SCMR 606), Sindh High Court Bar Association's case (PLD 2009 SC 879), Smt. Indra Nehru Ghandi v. Raj Narain (AIR 1975 SC 2299) and Minerva Mills Ltd. v. Union of India (AIR 1980 SC 1789).”

8. The scope of judicial review under Article 199 of the Constitution, particularly in matters falling within the administrative domain of the Executive, has been delineated in a consistent line of authorities. The governing principle is that, while constitutional courts are empowered to examine the legality of executive action and to ensure compliance with law, such jurisdiction does not ordinarily authorize them to assume administrative functions entrusted by law to the competent executive authorities. The foundational principle in this regard was enunciated by this Court in Tariq Transport Company, Lahore v. The Sargodha-Bhera Bus Service, Sargodha and others (PLD 1958 SC 437), wherein the Court emphasized the constitutional distribution of powers among the Legislature, the Executive and the Judiciary. The relevant portion of the paragraph is reproduced for ready reference:

“Any encroachment by the High Court in the field reserved for the executive would therefore amount to judicial invasion and would be contrary to the spirit of the Constitution. In the exercise of its writ jurisdiction the High Court can never substitute itself for, or assume the responsibility of the executive, for the simple reason that it does not have the requisite information, experience and training to discharge executive functions. That Court cannot, therefore, itself make any executive order, its function being confined to the issuing of directions on matters of law.” (As per Muhammad Muneer, C.J.,)

The Court further explained that judicial intervention is warranted where an administrative or executive officer acts beyond the authority conferred by law, wrongly refuses or omits to exercise jurisdiction vested in him, or materially departs from the procedure prescribed by law. The judgment thus draws a clear distinction between the lawful exercise of judicial review and the impermissible assumption of executive responsibility.

Moreover, the aforesaid principle was reaffirmed in case titled as The Government of N.W.F.P. through the Secretary to the Government of N.W.F.P., Communications and Works Departments, Peshawar v. Mohammad Saeed Khan and another, (PLD 1973 SC 514). Referring to Tariq Transport Company, reiterated that the High Court, in exercising its writ jurisdiction, cannot substitute itself for the Executive or itself make an executive order; its function remains confined to issuing appropriate directions on matters of law. The Court further recognized that executive action may be controlled where the competent authority exceeds the jurisdiction conferred upon it by law. This authority reinforces the

proposition that constitutional jurisdiction is supervisory and corrective in nature. It enables the Court to bring unlawful executive action into conformity with law; it does not, in the ordinary course, permit the Court to take over the decision-making functions entrusted to the competent administrative authority.

9. Furthermore, the same constitutional discipline is reflected in the later jurisprudence evolved by the Court. In Government of Khyber Pakhtunkhwa through Secretary Forest, Peshawar and others v. Sher Aman and others, (2022 PLC (C.S.) 1225), the Court reiterated that the discretionary jurisdiction conferred by Article 199 cannot be exercised in the absence of a valid legal foundation and observed:

“Discretionary Jurisdiction under Article 199 of the Constitution cannot be exercised in a vacuum. It must be grounded on valid basis, showing violation of specific and enforceable legal or constitutional rights. The discretion must be exercised in a structured and calibrated manner with due regard to parameters put in place by the Constitution as well as this Court.” (As per Ijaz-ul-Ahsan, J.)

In the same vein, the Supreme Court, in Dr. Muhammad Saleem v. Government of Balochistan and others, (2023 SCMR 2119), while elucidating the scope of judicial review and the principle of judicial restraint in matters falling within the executive domain, observed that: “it has been held that the transfer of a government official from one place or post to another to meet the exigencies of service was within the exclusive domain and competence of the competent authorities of the executive organ of the State and, ordinarily, it is not amenable to interference except in extraordinary circumstances.”

Although the aforesaid observation concerns the proper exercise of discretionary constitutional jurisdiction, its underlying significance is equally pertinent here: judicial intervention must be supported by a legally sustainable basis and exercised within the constitutional limits governing the Court's jurisdiction.

10. When the foregoing principles are applied to the facts of the present case, the principle of judicial restraint, the distinction between judicial review and the assumption of executive functions becomes material. The impugned directions did not merely require the competent police authorities to examine the matter or to act in accordance with law; they prescribed the petitioner's removal from the Special

Branch, his placement at Karachi for a specified period, a restriction upon his operational or field duties, and the taking of disciplinary action against him. These matters concern the administration, deployment and disciplinary control of a police officer and must, subject to the applicable law, be determined by the competent authorities based on the relevant record and in accordance with the prescribed procedure. The position is further compounded by the fact that the inquiry was conducted pursuant to the High Court's own directions, and the subsequent Inquiry Report did not establish the petitioner's involvement in the alleged raid or recommend further action against him at that stage. In these circumstances, the constitutional question is whether the adverse directions were founded upon a legally sustainable basis and whether, in issuing them, the High Court remained within the permissible limits of judicial review or entered the domain of executive administration.

11. In view of the foregoing authorities, the settled position is that Article 199 of the Constitution empowers the High Court to examine and correct unlawful executive action but does not ordinarily authorize it to assume the administrative functions of the Executive. The impugned directions must, therefore, be assessed against this constitutional distinction, the findings of the Inquiry Report, and the requirements of lawful and fair decision-making.

12. The principle of lawful direction and fair decision making also finds firm footing within our constitutional framework, particularly in Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973, which guarantees that to enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen; likewise, Article 9 of the Constitution enshrines the right to life, which includes the right to livelihood⁶, a right that is fundamentally impaired when a civil servant is deprived of his due employment and right to serve as per law. Article 10A secures the right to fair trial and due process⁷, which would be hollow if the impugned directions sustained. Article 14 protects the dignity of man⁸, and Article 25 ensures equality before the law. These provisions collectively

⁶Aatika Hina Mushtaq v. Secretary Special Education, Government of Punjab 2025 SCP 158 (SC citation); Divisional Superintendent v. Umar Daraz 2023 SCMR 761; Province of Punjab v. Kanwal Rashid 2021 SCMR 730; Pir Imran Sajid Versus Managing Director 2015 SCMR 1257; Abdul Wahab v. HBL 2013 SCMR 1383 and Olga Tellis v. Bombay Municipal Corporation AIR 1986 SC 180.

⁷Naveed Asghar v. The State PLD 2021 SC 600 and Altaf Ibrahim Qureshi v. Aam Logue Ittehad PLD 2019 SC 745.

⁸Mubarik Ali Babar v. Punjab Public Service Commission 2023 SCMR 518; Uzma Naveed Chaudhary v. Federation of Pakistan PLD 2022 SC 783 and Malik Ubaidullah v. Government of Punjab 2021 PLC (C.S.) 65.

impose a duty upon the courts to ensure that executive or disciplinary measures not only pursue lawful objectives but do so in a manner that is just, fair, and proportionate.

13. For the reasons discussed above, the petition is converted into appeals and is allowed.

14. The impugned orders dated 30.06.2026 passed by the learned high Court of Sindh, Circuit Court, Larkana C.P. No. S-117/2026 is hereby set aside.

The judgment is entered hereby, and appeal stands allowed.

Judge

Judge

Islamabad
02.10.2026
Ihtaram Ul Haq (Dy. Research Officer) *
Approved for Reporting