

**THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Justice Aamer Farooq  
Justice Rozi Khan Barrech

**F.C.P.L.A. Nos.384, 385 and 386 of 2026**

*(Against the judgment dated 12.11.2025 passed by High Court of Sindh at Karachi in WP No. D-2306 of 2025)*

Province of Sindh ...Petitioner(s)  
(in all the petitions)

***Versus***

Javed Iqbal Barqi and others In F.C.P.L.A.384/2026

Waqar Hussain and others In F.C.P.L.A.385/2026

Aashiqu Ali Langah and others In F.C.P.L.A.386/2026

...Respondent(s)  
(in all the petitions)

For the Petitioner(s) : Mr. Sibtain Mehmood, Additional  
Advocate General, Sindh  
(in all the petitions)

For the Respondent(s) : Mr. Rafiq Ahmad Kalwar, ASC  
(in F.C.P.L.As.385 and 386 of 2026)

Date of Hearing : 16.04.2026

**ORDER**

**Rozi Khan Barrech, J:** These constitutional petitions arise from a common judgment rendered by the High Court of Sindh, which addressed three petitions concerning the criteria and process for the appointment to the position of Director General (**DG**) of the Sindh Environmental Protection Agency (**SEPA**). The controversy stems from a Notification dated 21 July 2025, issued by the Province of Sindh, which stipulates that appointments to the post of DG, SEPA, shall be made by transfer from among officers of the Pakistan Administrative Services (**PAS**),

Provincial Management Services (**PMS**), and allied services. Notably, this Notification does not explicitly incorporate the technical qualifications mandated by the earlier Recruitment Rules of 2009 (hereinafter referred to as the "**Rules, 2009**").

In its judgment, the High Court declined to annul the aforementioned Notification, asserting that it should be interpreted as *supplementary* to the Rules, 2009, thereby maintaining the necessity for the requisite technical qualifications and experience. Aggrieved by this determination, the provincial government has sought recourse to the constitutional jurisdiction of this Court. Given the identical nature of the controversies presented in all petitions, they are hereby consolidated and adjudicated through this singular judgment

2. Heard.

3. The central question for determination before the High Court, and now before this Court, is whether the Government of Sindh, through Notification dated 21.07.2025 ("impugned Notification"), could validly alter the mode of appointment to the post of DG, SEPA by permitting induction from general cadre services without adherence to the technical qualifications prescribed under the Recruitment Original Rules, 2009.

4. The High Court has conducted a thorough examination of the statutory framework governing SEPA, which includes the Sindh Environmental Protection Act of 2014 (hereinafter referred to as "**Act 2014**") and the Rules of 2009. The Rules, 2009 delineate specific academic qualifications and requisite experience for appointment to the position of DG of SEPA, thereby underscoring the specialized and technical nature of the office. However, upon a plain reading of the impugned Notification, it is evident that it is silent regarding such

qualifications and merely prescribes a mode of appointment by transfer from administrative cadres.

5. It is a well-established principle of administrative law that subordinate legislation and executive instructions must be interpreted, to the extent possible, in harmony with the parent statute and existing rules. The repeal or supersession of earlier rules cannot be inferred in the absence of clear and express language, particularly when such an interpretation would contravene the object of the statute. In the present case, there is no discernible express repeal of the Rules of 2009 from the impugned Notification.

6. If the impugned Notification is construed in isolation, it would effectively eliminate the essential qualifications mandated for a specialized technical office, thereby reducing the position to a purely administrative role. Such an interpretation would undermine both the statutory framework and the legislative intent. Consequently, we concur with the High Court's determination that the doctrine of harmonious construction necessitates that the impugned Notification be read in conjunction with the Rules of 2009, thereby preserving the integrity of both. This approach does not constitute judicial legislation; rather, it ensures that executive action remains within lawful parameters.

7. The assertion that the impugned Notification was issued in compliance with the directives of the Supreme Court in *Shahab Usto*<sup>1</sup> is fundamentally misconceived. The observations made in that case were rendered within a specific factual context and cannot be elevated to a binding legal principle that would override the statutory framework or dilute the prescribed eligibility criteria. It is well established that

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<sup>1</sup> *Shahab Usto vs Government of Sindh through Chief Secretary* (2017 SCMR 732)

executive action must conform to statutory rules, and any deviation therefrom, particularly one that compromises essential qualifications in a specialized field, cannot be sustained.

8. A careful examination of the aforementioned judgment reveals that it was primarily focused on addressing administrative inefficiency by facilitating the appointment of a cadre officer. It does not, either expressly or by necessary implication, dispense with the requirement of technical competence for the position in question. Therefore, the reliance placed on this judgment is misplaced. This conclusion is further substantiated by the province's own subsequent conduct, including the inconsistent classification of the post and its exclusion from the cadre list, which negates the existence of any rigid or binding mandate arising from that judgment.

9. The office of DG, SEPA is a pivotal position within a statutory authority tasked with the enforcement of environmental laws. The nature of this office inherently demands not only administrative acumen but also demonstrable technical expertise. Any interpretation that permits appointments in derogation of these essential requirements would frustrate the object of the statute and undermine the constitutional guarantee of the right to life and right to clean and healthy environment as envisaged in Article 9 and 9-A<sup>2</sup> of the Constitution of Islamic Republic of Pakistan, 1973 (the “**Constitution**”) respectively which encompasses the imperative of environmental protection. Article 9 and 9-A of the Constitution 1973, is reproduced for ready reference:

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<sup>2</sup> Ins. by the Constitution (Twenty-sixth Amendment) Act, 2024 (Act No. XXVI of 2024), s. 2.

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

***9A. Clean and healthy environment.*** *Every person shall be entitled to a clean, healthy and sustainable environment.*”

*Emphasis added*

Article 9 of the Constitution guarantees that "*No person shall be deprived of life or liberty save in accordance with law.*" This fundamental right underscores the imperative that every citizen is entitled to a life of dignity, which encompasses not only the absence of physical harm but also the assurance of a healthy environment. Furthermore, Article 9-A, recently added through the Constitution (Twenty-sixth Amendment) Act, 2024, explicitly states that "*Every person shall be entitled to a clean, healthy and sustainable environment.*" The role of DG, SEPA is crucial in safeguarding these rights, as the DG is responsible for enforcing environmental laws that protect the populace from pollution and other environmental hazards. The failure to adhere to the technical qualifications and experience required for this position, as mandated by the Rules 2009, could result in the appointment of individuals who lack the necessary expertise to effectively manage environmental issues. Such a scenario could lead to detrimental consequences for public health and safety, thereby infringing upon the citizens' right to life and a clean environment as enshrined in Articles 9 and 9-A of the Constitution. It is, therefore, essential that the appointment process for the DG, SEPA strictly complies with the established legal framework to ensure that the fundamental rights of the citizens are upheld and protected.

10. Furthermore, we find no infirmity in the directions issued by the High Court for the re-examination of the appointment of the incumbent

Additional Director General and for the verification of academic credentials through the Higher Education Commission of Pakistan. These directions align with the governing legal framework and serve to promote transparency, fairness, and merit in the appointment process.

11. For the foregoing reasons, we find no illegality or jurisdictional error in the impugned judgment warranting interference by this Court. These petitions are dismissed. The judgment of the High Court is upheld in its entirety. Leave refused.

Judge

Judge

Islamabad  
16.04.2026  
Zahid/Ihtaram Ul Haq  
**Approved for Reporting**