

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE TASSADUQ HUSSAIN JILLANI, HCJ  
MR. JUSTICE KHILJI ARIF HUSSAIN  
MR. JUSTICE SH. AZMAT SAEED

**CIVIL APPEAL NOS. 38 TO 45 OF 2014 &**  
**CIVIL PETITION NOS. 26-K TO 34-K, 163 & 164 OF 2014**

Province of Sindh through Chief Secretary etc (In all cases)  
Syed Mureed Ali Shah (In CP 163/2014)  
Syed Zafar Ali Shah (In CP 164/2014)  
... Appellants/Petitioners

**VERSUS**

MQM through its Deputy Convener etc (In CA 38/2014)  
Syed Mureed Ali Shah and another (In CA 39/2014)  
Sheeraz javaid and others (In CA 40/2014)  
Muhammad Hanif Qureshi and others (In CA 41/2014)  
Syed Zafar Ali Shah and others (In CA 42/2014)  
Shah Hussain Shah Sheerazi and others (In CA 43/2014)  
Muhammad Shareef Mirbahar and others (In CA 44/2014)  
Munawar Baig and others (In CA 45/2014)  
Irfanullah Khan Marwat and another (In CP 26-K/2014)  
Abdul jabber Khan and another (In CP 27-K/2014)  
Asif Iqbal and another (In CP 28-K/2014)  
Basharat Mehboob and another (In CP 29-K/2014)  
Syed Ashfaq Ali and others (In CP 30-K/2014)  
Moula Bux Perozani (In CP 31-K/2014)  
Irfan ul Haq Magsi and another (In CP 32-K/2014)  
Pir Syed Bashir Ahmed Shah Jillani etc (In CP 33-K/2014)  
Syed Nasir Abbas and others (In CP 34-K/2014)  
Province of Sindh through Chief Secretary etc (In CPs 163-164/2014)  
... Respondents

**CIVIL APPEAL NOS. 38 TO 45 OF 2014 & CIVIL PETITION NOS.**  
**26-K TO 34-K OF 2014**

For the Appellant: Mr. Farook H. Naik, ASC,  
Assisted by Barrister Shiraz Shaukat Rajpar.  
Mr. Abdul Fateh Malik, AG, Sindh.  
Mr. Adnan Karim, Addl. AG, Sindh

For the Respondent: Barrister Farogh Naseem, ASC  
(In CA 38/14)  
  
Syed Mureed Ali Shah, in person  
(In CA 39/14)  
  
Syed Zafar Ali Shah, in person  
(In CA 42/14)

For E.C.P: Mr. Munawar Baig, in person  
(In CA 45/2014)

Mr. Ishtiaq Ahmed Khan, Secretary  
Mr. Sher Afghan, Addl Secretary

On Court Call: Mr. Salman Aslam Butt, AG Pakistan.

Amicus Curie: Kh. Haris Ahmed, Sr. ASC  
Makhdoom Ali Khan, Sr. ASC

Dates of Hearing: 11,12,13,17, 18 & 19<sup>th</sup> of February, 2014

**CIVIL PETITION NOS. 163 & 164 OF 2014**

For the Petitioner: Syed Mureed Ali Shah & Syed Zafar Ali Shah, both in person

For E.C.P: Mr. Ishtiaq Ahmed Khan, Secretary  
Mr. Sher Afgan, Addl. Secretary

For Govt of Sindh: Mr. Farook H. Naik, ASC,  
Assisted by Barrister Shiraz Shaukat Rajpar.  
Mr. Abdul Fateh Malik, AG, Sindh.  
Mr. Adnan Karim, Addl. AG, Sindh

For the Respondent: N. C. Motiani, ASC/AOR  
(for resp no. 1 & 2 in CA 43/14),  
(for resp no. 1 in CA 44/14),  
(for resp no. 1 in CP 27-K/14),  
(for the applicant in CMA 241/14 in CA 38/14)

Mr. Akhtar Hussain, ASC  
(for resp no. 1 & 2 in CA 43/14),  
(for resp no. 1 in CA 44/14),

On Court Call: Mr. Salman Aslam Butt, Attorney General

Amicus Curie: Kh. Haris Ahmed, Sr. ASC  
Makhdoom Ali Khan, Sr. ASC assisted by  
Mr. Khurram Mumtaz Hashmi, ASC  
Mr. Saeed Mumtaz Hashmi, ASC  
Barrister Zarnab

Date of Hearing: 18 & 19<sup>th</sup> of February, 2014

**CIVIL APPEAL NO. 297 OF 2014**

For the appellant: Mr. Muhammad Akram Sh, Sr. ASC

For the Respondent:

On Court Call: Mr. Salman Aslam Butt, AG Pakistan.

Amicus Curie: Kh. Haris Ahmed ASC  
Makhdoom Ali Khan, ASC

Dates of Hearing: 17,18,19<sup>th</sup> of February, 2014

**ORDER**

**TASSADUQ HUSSAIN JILLANI, CJ.**- We have heard learned counsel for the appellants, for the respondents, learned Advocate General Sindh, learned Attorney General for Pakistan and learned *amici curiae*.

2. For reasons to be recorded later in the detailed judgment, we hold, declare and direct as under:-

- i) that the power to hold elections of the Local Government stand vested in the Election Commission of Pakistan in terms of Article 140A of the Constitution of Islamic Republic of Pakistan. The Election Commission of Pakistan has been mandated to “*organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against*” (Article 218(3) of the Constitution);
- ii) that we uphold para 60(e) of the judgment of the Sindh High Court dated 26.12.2013;
- iii) that since the delimitation of constituencies of the Local Government is part of the process of organizing and holding elections honestly, justly and fairly which is the Constitutional mandate of the Election Commission of Pakistan, the power to carry out such delimitation should vest with the Election Commission of Pakistan;

iv) that as the holding of election of Local Government has been delayed for more than nine years, which is violative of the Constitutional command, we are persuaded to direct the Governments, Federal and Provincial (of Sindh) to carry out appropriate amendments / legislation to empower the Election Commission of Pakistan to initiate and carry out the process of delimitation of constituencies for the Local Government Elections. This exercise should be completed within a period of five months from today and the Election Commission of Pakistan shall thereafter take requisite measures to carry out the process of delimitation of constituencies for the Local Government expeditiously so as to complete the same within a period of 45 days of the enactment/amendments in laws in terms of this order. The Election Commission of Pakistan shall further ensure that the announcement of election schedule and the process of holding it is complete by or before 15<sup>th</sup> of November, 2014.

3. The cases stands disposed of in terms noted above.

Sd/- Tassaduq Hussain Jilani, HCJ  
 Sd/- Khilji Arif Hussain, J.  
 Sd/- Sh. Azmat Saeed, J