

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Constitution Petition No.D-213 of 2025

Date	Order with signature of Judge
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Before:

*Mr. Justice Arbab Ali Hakro;
Mr. Justice Abdul Hamid Bhurgri.*

Petitioner : Asghar Ali son of Haji Wahid Bux Bhutto, through Mr. Asif Hussain M.Nawaz Chandio, Advocate.

Respondents No.1 to3 : Through Mr. Sarfraz Ali Abbasi, Advocate,

Respondent No.4 : Through Mr. Habibullah Ghouri, Advocate

Respondent No.5 : Through Mr.Jam Zuhaiib Ahmed, Advocate

Respondents No.7&8 : Through Mr. Liaquat Ali Shar, Additional Advocate General Sindh.

Date of Hearing : ***13.11.2025.***

Date of Order : ***28.11.2025.***

O R D E R

Abdul Hamid Bhurgri, J.- Through the instant petition, the petitioner, who had applied for the posts of Director Human Resources and Registrar (both in BPS-20), has challenged the proceedings of the Selection Board of Shaheed Mohtarma Benazir Bhutto Medical University, Larkana (SMBBMU), held on 29.04.2024, as well as the subsequent notifications dated 24.01.2025, through which respondents No.4 and 5 were appointed as Director Human Resources (BPS-20) and Registrar (BPS-20), respectively. The petitioner seeks suspension and cancellation of the aforesaid appointments, and also prays for setting aside the proceedings of the Selection Board.

2. The Petitioner claims that he possesses 15 years of administrative experience in the University sector and was initially appointed as Assistant Director (HR) (BPS-17) on contract at SMBBMU in October 2013, later regularized in 2016, and presently serving as Deputy Director (HR) (BPS-18) at Ghulam Muhammad Maher Medical College, Sukkur. It is alleged that the selection process undertaken on 29.04.2024 was illegal, biased and tailored to favour Respondents No.4

and 5, who were ultimately recommended and later appointed against the posts of Director HR (BPS-20) and Registrar (BPS-20) respectively. According to the Petitioner, Respondent No.5, a faculty member serving as Associate Professor of Pharmacology, lacked the mandatory purely administrative experience required for appointment as Registrar, yet counted both teaching and administrative roles simultaneously, contrary to the eligibility criteria. His reliance on experience gained through additional charges, according to the Petitioner, did not meet the statutory requirement of "purely administrative experience." The Petitioner further avers that Respondent No.6, previously holding additional charge of Registrar, was re-appointed as Professor of Physiology shortly after retirement and acted as convener of the impugned Selection Board. The Petitioner claims that Respondent No.6 was prejudiced against him, as he had earlier served him legal notices on alleged maladministration. It is asserted that Respondent No.4, who himself contested for the post of Director HR (BPS-20), floated the advertisements on 14.03.2024 for recruitment of both teaching and administrative posts, received applications at his own office, and issued interview calls, allegedly in gross violation of Rule 6(4) of the First Statutes of the University, which provides that "No member who is a candidate for the post to which appointment is to be made shall take part in the proceedings of the Board." It is further stated that the Selection Board lacked quorum because two mandatory members, namely the Secretary, Universities & Boards and the Nominee of the Hon'ble Chief Justice of the High Court, did not attend the meeting. The Petitioner submits that the recommendations of such an incomplete Board have no legal sanctity. The Petitioner also alleges a direct conflict of interest, asserting that Respondent No.4 is the son of Professor Dr. Zafar Ahmed Pirzada, who participated in the meeting and allegedly supported the appointment of his son to the post of Director HR (BPS-20). It is stated that the minutes

were not signed by all Board members, further indicating mala fide intent. The Petitioner contends that the eligibility criteria for Registrar stipulated 12-15 years total experience, including 06-08 years in purely administrative positions in educational or R&D institutions, and at least 10 years of service in BPS-17/18 or equivalent. Respondent No.5, being a teaching faculty member, allegedly does not fulfill a single year of purely administrative service. It is further alleged that the Board did not scrutinize all applications or participate in the shortlisting process, contrary to Rule 7(1) of the First Statutes, which mandates the Selection Board to consider all applications and recommend suitable candidates to the Syndicate. The Petitioner submits that the Selection Board neither evaluated nor recorded objective reasons while rejecting certain applicants or declaring several positions unsuitable, including Assistant Controller (BPS-17) where, out of 29 applications, 18 were shortlisted but no candidate was recommended without assigning cogent reasons. He claims that objections were raised by two members of the Syndicate in its meeting dated 30.04.2024, one of whom also submitted a dissenting note questioning the eligibility of Respondent No.5, but such objections were ignored for the purpose of favouring Respondents No.4 and 5. The Petitioner claims that selection processes at SMBMU were previously questioned in C.P No. D-2090/2015, wherein this Court directed compliance within 60 days but the University failed to do so. It is also stated that the impugned process was challenged in C.P No.D-2206/2024 before the Principal Bench, wherein an interim order dated 08.05.2024 was passed restraining action on recommendations pertaining to certain appointees. The Petitioner applied for impleadment under Order I Rule 10 CPC but withdrew his application as not pressed. Ultimately, despite concerns, the University issued appointments of Respondents No.4 and 5 vide notification dated 24.01.2025, prompting the present petition.

3. Respondents No.1 to 3 and 5 have jointly submitted their parawise comments stating that the appointment of the Petitioner as Deputy Director (HR) is itself under challenge in C.P. No. D-449 of 2024, which is pending adjudication before this Court; therefore, he has no locus standi to assail appointments of other candidates. It is stated that Mr. Fayaz Ahmed Soomro, who was appointed as Additional Registrar on regular basis, opted to rejoin his former organization, leaving the post vacant. Thereafter, Respondent No.2 (Dr. Waseem Abbas), Director Institute of Pharmacy, was assigned temporary charge of Additional Registrar pursuant to Clause 10(5)(a) & (c) of the SMBMU Act, 2008, which authorizes the Vice Chancellor to appoint and delegate duties to officers and faculty members. It is further asserted that the impugned notification was issued under directions of the competent authority and in compliance with order dated 23.01.2025 passed by the Hon'ble High Court of Sindh, Karachi in C.P. No. D-2206/2024, hence no illegality is involved. It is submitted that five candidates were shortlisted for the post of Registrar, out of which the Selection Board found Respondent No.5 as the most suitable candidate, whereas the Petitioner could not secure qualifying marks. It is further claimed that the Petitioner was previously issued a warning letter by the University for alleged misconduct and corrupt practices, which explains his personal grudge against Respondent No.6. Regarding the post of Director HR, it is stated that four candidates, including the Petitioner, were interviewed; however, none could qualify on merit except Respondent No.4, whose name was unanimously recommended by the Selection Board and thereafter approved by the Syndicate and Senate. It is contended that only one vacancy existed per post, hence only one candidate could be recommended. On the issue of quorum, it is maintained that though invitations were duly sent to the Nominee of the Hon'ble Chief Justice and the Secretary, Universities & Boards Department, they could not

attend due to engagements; nevertheless, for the interview of Registrar, five members were present, and for Director HR, four members attended, which according to the Respondents satisfies the quorum requirement. It is further pointed out that during the Petitioner's appointment as Deputy Director HR, the same attendance pattern existed and the Petitioner never objected, which reflects mala fide on his part. With regard to alleged conflict of interest, it is categorically denied that Prof. Dr. Zafar Ali Pirzado, father of Respondent No.4, participated in the proceedings when his son was interviewed. The comments assert that he himself refused and remained outside the meeting for that category. Any photograph relied upon by the Petitioner is claimed to be irrelevant to the interview of Respondent No.4. Respondents further submitted that reliance on the judgment in C.P. No. D-2090/2015 is misplaced, as the said case pertained to appointments of teaching faculty, whereas the present recruitment relates to non-teaching posts, which does not require participation of academic experts. It is contended that Selection Board proceedings were conducted strictly in accordance with the First Statutes of SMBBMU, HEC, and PMDC regulations, and contractual appointments are being made due to delay in government approvals for regular hiring. Lastly, it is submitted that the Petitioner has selectively challenged only two appointments although the same Selection Board has appointed five administrative officers and nine faculty members thereafter, indicating mala fide motive. It is further argued that the University has no statutory service rules, thus the instant petition is not maintainable under Article 199 of the Constitution and is liable to be dismissed.

4. The respondent No. 4, in his objections, has categorically denied the allegations leveled against him and termed the same as misconceived. He submits that, while serving as Acting Director Human Resources, he merely received approvals and directions from the

competent authorities for publication of the advertisement regarding various vacant posts. The said advertisement was forwarded for publication in different newspapers, as well as electronic and print media, strictly in accordance with the directions issued. He clarifies that he did not participate in any manner in the recruitment process pertaining to the post of Director Human Resources. He further explains that his father was nominated as a member of the Selection Board and had confirmed his availability for the meeting scheduled on 29-04-2024, but only in relation to categories other than Human Resources. Consequently, his father was not a member of the Selection Board for the selection process concerning the post of Director Human Resources. According to respondent No. 4, six candidates applied for the post of Director Human Resources, out of which four candidates were short-listed, and three candidates actually appeared for interview. He was one of the candidates for the said post. Since his father did not participate as a member of the Selection Board for this category, there was no question of conflict of interest. As per the result sheet, the petitioner obtained 32 marks, another candidate obtained 21 marks, whereas respondent No. 4 secured 49 marks, and was thus selected purely on merit. In conclusion, he asserts that the petitioner, having failed to qualify on merit, has filed the present petition with mala fide intent. He prays that the petition, being meritless and vexatious, is liable to be dismissed.

5. Respondent No.5 has also filed separate para-wise comments denying all allegations. He contends that neither he nor his family has any political affiliation and states that his father is a distinguished literary figure of Sindh, honoured with the Pride of Performance Award. He submits that he holds a Ph.D. in Pharmacology, has over 50 research publications, and has served in various administrative positions within the University, which, according to him, constitute purely administrative experience. He asserts that the petitioner has misconceived the term

“purely administrative” and that his credentials fully meet the eligibility criteria. He further states that he has recently been shortlisted for the post of Vice Chancellor, University of Sindh, Jamshoro, by the Sindh HEC on the same credentials, which validates his eligibility. Respondent No.5 also alleges that the petitioner lacks clean hands as he was previously suspended on corruption charges and warned. It is lastly submitted that the recommendations of the Selection Board were approved by the Syndicate, with only one dissenting note, which was duly overruled. He therefore prays for dismissal of the petition with costs.

6. Learned counsel for the Petitioner contended that the entire selection process conducted on 29.04.2024 was illegal, biased and tailored to favour Respondents No.4 and 5. It was submitted that the Petitioner meets the experience criteria under the 2014 Code, and therefore both the private respondents were ineligible under the same. Counsel argued that the Selection Board lacked quorum, as the Nominee of the Hon’ble Chief Justice and Secretary, Universities & Boards Department did not attend the meeting, rendering its recommendations void. It was further argued that Respondent No.4’s father, being a member of the Selection Board, had a direct conflict of interest, and that Respondent No.5, while acting as Registrar, issued the very advertisement for posts he later applied for, which amounts to participating in his own selection. According to counsel, the minutes of the Board did not reflect a transparent process, and objections of dissent were ignored. Counsel therefore prayed that the appointments and notification dated 24.01.2025 be set aside.

7. Conversely, learned counsel for the Respondents submitted that the Petitioner’s reliance on the 2014 Code is misconceived because the University has duly approved the 2024 Code Book through the Syndicate, and eligibility must be determined under the law in force at the time of selection. It was argued that both private respondents fulfilled

eligibility under the 2024 Code. Counsel further submitted that the First Statutes are silent regarding quorum, and the presence of four and five members for the respective posts satisfies the principle of majority; hence no illegality arises. It was categorically denied that Respondent No.4's father participated in his son's interview, and documentary record shows that he refused himself from that category. It was further submitted that Respondent No.5 did not participate in the selection process and merely issued the advertisement in his administrative capacity as Acting Registrar on the directions of the competent authority. Counsel argued that the Selection Board, Syndicate and Senate are competent statutory bodies, their majority approval carries a presumption of regularity, and the Petitioner, being an unsuccessful candidate facing disciplinary history, has approached the Court with mala fide intention. Therefore, the petition is liable to be dismissed.

8. We have heard learned counsel for the Petitioner as well as learned A.A.G and learned counsel for the University, and have carefully examined the record, including the relevant provisions of the SMBBMU Act, the First Statutes, the old and new "Code Books" and the minutes of the Selection Board and Syndicate. The challenge essentially rests on four planks: (i) alleged ineligibility of the private respondents on the basis of the 2014 Code; (ii) alleged lack of quorum of the Selection Board; (iii) alleged conflict of interest on account of the presence of the father of Respondent No.4; and (iv) alleged participation of Respondent No.4 in the selection process in his capacity as Director H.R. We are not persuaded that any of these grounds disclose an illegality, jurisdictional defect, or mala fide warranting interference in the exercise of constitutional jurisdiction.

9. As regards the first limb of attack, the Petitioner's entire challenge to the eligibility of the private respondents is premised on a Code of 2014. The material placed on record, however, shows that the

new Code Book of SMBBMU, Larkana, 2024 was framed and unanimously approved by the competent statutory forum vide notification dated 06.11.2023, consequent upon the Syndicate meeting held on 07.10.2023. Once a new regulatory framework has been duly approved by the Syndicate, the eligibility of candidates has to be tested under the law in force at the time of selection, and not under a superseded or replaced regime. We accordingly hold that the eligibility of Respondents No.4 and 5 had to be and was rightly assessed in the light of the 2024 Code Book, and under that regime the respondents meet the prescribed criteria. The reliance of the Petitioner on the Code of 2014, which stands replaced, is therefore misconceived and cannot be made a basis to invalidate the selection.

10. Turning to the second objection regarding quorum of the Selection Board, we find, on a plain reading of the First Statutes governing the Selection Board, that while the composition of the Board is prescribed, no specific provision has been made regarding a numerical quorum for its meetings in relation to non-teaching/administrative posts. For the present selections, the Board comprised seven members; the proceedings for the post of Registrar were attended by five members, and those for the post of Director HR were attended by four members. Where the governing law is silent on quorum, the settled principle is that the acts of the majority of the members participating in a duly convened meeting constitute the valid act of the body. The doctrine of majority rule applies unless a statute or regulation specifically prescribes a different threshold. Courts cannot judicially create stricter quorum requirements when the rule-making authority itself has chosen not to frame them. Doing so would amount to judicial legislation and would stifle administrative functioning. It is also a recognized rule of institutional governance that the absence of some members does not invalidate the decision of the body, provided that (i) the meeting was properly convened,

(ii) eligible members were duly notified, and (iii) the members who actually participated reached a majority decision. A deliberative body acts through those who attend; the law does not require unanimity unless expressly stated. Thus, so long as the participating members constitute a functioning majority and there is no allegation of mala fide, bias, or breach of a mandatory statutory procedure, the decisions taken are presumed to be valid. Judicial precedent has consistently affirmed that where a statute is silent on quorum, courts adopt a liberal and validating interpretation, holding that the decision of the majority of members present is sufficient to sustain official acts. Courts have declined to invalidate such proceedings on the mere ground of non-attendance of certain members, unless it is shown that their absence was procured with ulterior motive or that the participation of a greater number of members was a mandatory legal requirement. Viewed in this legal framework, the objection regarding quorum is devoid of merit. The Selection Board's proceedings were carried out by a functional majority of its members, and no statutory irregularity, prejudice, or mala fide has been established.

11. We may add that the Petitioner's own appointment as Deputy Director HR was made by a Selection Board functioning in substantially similar attendance/strength, and no objection to quorum was ever raised at that time. A party cannot be permitted to approbate and reprobate accept the very same structure when it benefits him, yet denounce it as illegal when he is unsuccessful. This inconsistency further weakens the Petitioner's plea regarding the alleged non-quorum of the Board.

12. The third contention pertains to alleged conflict of interest inasmuch as the father of Respondent No.4 is a nominated member of the Selection Board. The record, including the minutes and the stand taken by the University, demonstrates that Prof. Dr. Zafar Ali Pirzado

expressly recusal himself and did not sit in the meeting during the interview and deliberations concerning the category of Director HR, in which his son was a candidate. His recusal ensured that he neither participated in the evaluation nor influenced the Board's decision for that particular post. Such conduct, far from evidencing bias, reflects adherence to principles of fairness and propriety. In the face of this documentary position, the bald allegation that he participated in the selection of his son cannot be accepted. No contrary material has been produced by the Petitioner to rebut the record of recusal; thus this ground also fails.

13. With regard to the allegation that Respondent No.4 participated in or manipulated the selection process by issuing the advertisement, we find no substance. The material produced shows that he was holding the acting/looking-after charge of Director H.R, and that the advertisement for various posts, including Registrar and Director HR, was issued on the administrative side under the directions of the competent authority. Issuance of an advertisement in such circumstances is a ministerial and administrative function, not an exercise of evaluative discretion. The record further shows that after complying with the directions of the competent forum for issuance of advertisement, Respondent No.4 distanced himself from the process in his administrative capacity and thereafter appeared only as a candidate before the Selection Board. To hold that a person who has merely processed or signed an advertisement under orders is forever disabled from applying for the advertised post would be to read into the law a disqualification which does not exist. No material has been brought to show that he took part in shortlisting, marking or deliberations in his own case. Thus the plea that he participated in the "selection process" in a prohibited manner is without merit.

14. Beyond the above, we also find that the Petitioner has not been able to point out any concrete illegality, violation of mandatory provisions, or proved mala fide in the conduct of the Selection Board or Syndicate. The Petitioner essentially invites this Court to re-assess comparative merits, service profiles and experience certificates of all candidates and to sit as a court of appeal over the decision of the expert/statutory bodies. This is impermissible in writ jurisdiction. The role of the Court is confined to examining decision-making process, not to substituting its own view on suitability or merit unless the process is shown to be tainted by arbitrariness, discrimination, mala fide or violation of statute. No such case has been made out on the present record.

15. We are also mindful of the principle of presumption of regularity of official acts. The Selection Board, Syndicate and Senate are statutory bodies comprising senior academics, government nominees and institutional stakeholders. Their collective and majority approval of the appointments of Respondents No.4 and 5, with only isolated dissent, is a strong indicator that the process was carried out within the framework of law and institutional autonomy. The Petitioner's mere disagreement with the outcome, coupled with his own unsuccessful candidature and past disciplinary issues referred to in the comments, is insufficient to dislodge that presumption. Reliance is placed in the case of **Khyber Medical University and others v. Aimal Khan and others, PLD 2022 S.C 92**, wherein the Court held as under:-

"4. It has been time and again held by this Court' that courts must sparingly interfere in the internal governance and affairs of educational institutions. It is simply prudent that the courts keep their hands off educational matters and avoid dislodging decisions of the university authorities, who possess technical expertise and experience of actual day to day workings of the educational institutions. Every university has the right to set out its disciplinary and other policies in accordance with law, and unless any such policy offends the fundamental rights of the students or violates any law, interference by the courts results in disrupting the smooth functioning and governance of the university. It is, therefore, best to leave the disciplinary,

administrative and policy matters of the universities or educational institutions to the professional expertise of the people running them, unless of course there is a violation of any of the fundamental rights or any law”.

16. The reliance placed by the Petitioner on earlier litigation pertaining to SMBBMU is also misplaced. The record shows that C.P. No. D-2090/2015 related to a different selection process for teaching faculty, where the composition and participation of subject experts were in issue. The present case concerns non-teaching/administrative posts, governed by a different factual and regulatory matrix. No parity in fact or law has been demonstrated to extend the earlier judgment in a manner that would automatically invalidate the present selections.

17. In sum, we find that: (i) the Petitioner’s objection on eligibility is founded on a repealed Code and ignores the duly approved 2024 Code Book under which the private respondents meet the eligibility criteria; (ii) the plea of lack of quorum fails in view of statutory silence, majority participation and the validating interpretative approach; (iii) the allegation of conflict of interest is negated by the documented recusal of the father of Respondent No.4; (iv) the allegation that Respondent No.4 tainted the process merely by administratively issuing the advertisement is misconceived; and (v) no actionable mala fide, arbitrariness, or violation of mandatory law has been established. The Petition, being devoid of merit, is accordingly dismissed, with no order as to costs.

18. Before parting with this judgment, it has been observed that although the Code Book of SMBBMU, Larkana specifies the quorum requirement for recruitment of the teaching cadre, it remains silent with regard to the numerical quorum of the Selection Board for appointments to non-teaching/administrative posts. While, for the reasons recorded hereinabove, this omission does not invalidate the present process, the absence of an express provision has evidently contributed to the controversy raised before this Court.

19. In order to ensure clarity, uniformity, and to avoid avoidable litigation in future recruitment processes, it is considered appropriate to direct the University to frame and incorporate an explicit provision concerning quorum for the Selection Board in the case of officers and other non-teaching posts, analogous to the existing provision for the teaching cadre. The said amendment shall be made through the competent statutory forum (Syndicate) and included in the Code Book/Statutes within a reasonable time.”

20. This direction is issued prospectively and shall not affect the outcome of the present selection, which has already been adjudged valid. Its purpose is only to ensure clarity in future recruitment proceedings.

JUDGE

JUDGE

Irshad Ali M/Steno