Form No: HCJD/C-121

ORDER SHEET

IN THE LAHORE HIGH COURT
BAHAWALPUR BENCH BAHAWALPUR
(JUDICIAL DEPARTMENT)

Case No. ICA No.130 of 2025

Muhammad Umair Farooqi **Versus** *The Federation of Pakistan and others*

Sr. No. of order/ Proceedings	Date of order/ Proceedings	Order with signatures of Judge, and that of parties or counsel, where necessary.

27.11.2025 Mr. Muhammad Atif Qureshi, Advocate for the appellant.
Ms. Riffat Yasmeen, Assistant Attorney General for Pakistan on Court's call.

This Intra-Court Appeal ("ICA") under section 3 of the Law Reforms Ordinance, 1972 ('the Ordinance') calls in question the judgment dated 08.10.2025 passed by the learned Single Judge-in-Chambers whereby writ petition No.624 of 2024 filed by MCB Bank Ltd. (respondent No.4) was allowed.

2. At the very outset, the learned Law Officer has raised a preliminary objection to the maintainability of this ICA, contending that the statutory bar contained in the proviso to section 3(2) of the Ordinance squarely applies. It is argued that where the original proceedings already provide at least one opportunity of appeal, revision, or review, an ICA under section 3 is expressly barred. According to the learned Law Officer, the representation before the President constitutes an appellate forum in substance, and therefore the present ICA is not maintainable.

3. In rebuttal, learned counsel for the appellant submits that a representation under section 14 of the Federal Ombudsmen Institutional Reforms Act, 2013 ("the Act, 2013") is not analogous to an appeal, revision or review, and therefore, does not attract the bar under section 3(2) of the Ordinance.

4. In view of the objection raised by the learned Law Officer, this Court finds it imperative to address and determine the question of maintainability as a preliminary matter, prior to any further consideration of the appeal's substance, so as to ensure that the proceedings are properly before it.

5. It is well-established that an appeal is not an inherent or automatic right; it is a creature of statute. A litigant may invoke such right only if the law expressly confers it and strictly in the manner, before the forum, and subject to the conditions prescribed by the relevant statute. In matters arising from orders of a learned Single Judge of this Court, the only provision conferring a right of appeal is section 3 of the Ordinance, which reads: -

> *"**3. Appeal to High Court in certain cases.** –(1) An appeal shall lie to a Bench of two or more judges of a High Court from a decree passed or final order made by a single Judge of that Court in the exercise of its original civil jurisdiction.*
> *(2) An appeal shall also lie to a Bench of two or more Judges of a High Court from an order made by a single Judge of that Court under clause (1) of Article 199 of the Constitution of the Islamic Republic of Pakistan not being an order made under subparagraph (i) of paragraph (b) of that clause:*
> *Provided that the appeal referred to in this subsection shall not be available or competent if the application brought before the High Court under Article 199 arises out of any proceedings in which the law applicable provided for at least one*

> *appeal or one revision or one review to any court, tribunal or authority against the original order.*
> *(3) No appeal shall lie under subsection (1) or subsection (2) from an interlocutory order or an order which does not dispose of the entire case before the Court.*
> *(4).- - - -"*

Section 3 ibid makes it vivid that the jurisdiction of a Division Bench of High Court in ICA matters is both limited and conditional. Sub-section (1) deals with decrees passed in the exercise of original civil jurisdiction. Sub-section (2), which is relevant here, permits an appeal from an order passed under Article 199(1) of the Constitution, but simultaneously carves out an explicit exception that where the underlying proceedings already provide at least one statutory remedy in the nature of appeal, revision or review before any court, tribunal, or authority, an ICA does not lie. Thus, the availability of a prior statutory tier of scrutiny ousts the jurisdiction of this Court under section 3(2) of the Ordinance.

6. The above statutory scheme needs to be read in consonance with Article 175(2) of the Constitution, which mandates that no court shall exercise jurisdiction unless such jurisdiction is conferred by the Constitution or by law. Therefore, unless the prerequisites of section 3 are satisfied, this Court cannot entertain an ICA. Equally important is the settled constitutional principle that matters decided by a forum lacking lawful jurisdiction bear no legal effect; hence, the jurisdictional threshold under section 3(2) is not merely procedural rather is substantive.

7. The factual matrix of the case in hand is that the appellant lodged a complaint before the Banking Mohtasib Pakistan, which was accepted on 15.04.2022. Respondent No.4 availed the statutory remedy of representation before the President under section 14 of the Act, 2013, whose office accepted the representation vide order dated 14.12.2023 and enhanced the payable amount from Rs.1,74,232.12/- to Rs.3,73,908.17/-. Respondent No.4 then challenged that order through Writ Petition No.624 of 2024, which was allowed, resulting in the setting aside of the order dated 14.12.2023. The present ICA has been filed against that judgment.

8. The Act, 2013 provides two internal statutory remedies against a decision, order, findings or recommendations of the Ombudsman i.e. Review before the Ombudsman under Section 13 and Representation to the President under Section 14. Before proceeding further, it is appropriate to examine the scope and legal effect of each of these remedies in sequence. First, the impact and scope of review under section 13 is determined. For convenience, section 13 is reproduced here:

> ***13. Review.*** *—(1) The Ombudsman shall have the power to review any findings, recommendations, order or decision on a review petition made by an aggrieved party within thirty days of the findings, recommendations, order or decision.*
> *(2) The Ombudsman shall decide the review petition within forty-five days.*
> *(3) In review, the Ombudsman may alter, modify, amend or recall the recommendation, order or decision.*

Although section 13 of the Act, 2013 expressly empowers the Ombudsman to review its own recommendations, orders or decisions and authorizes it to alter, modify, amend or recall the same, such authority is not unqualified or unlimited. It has been consistently held by the Supreme Court of Pakistan that where a statute empowers a forum to review its own decision but does not specify the precise grounds on which such review may be undertaken, guidance may be drawn from the general principles governing the exercise of the power of review embodied in Order XLVII Rule 1 CPC namely, the correction of a patent error, a mistake apparent on the face of the record, or the discovery of a material fact or document which, despite due diligence, could not be produced earlier. The Supreme Court has repeatedly cautioned that review is not intended to provide a litigant a second attempt at the case, nor is it to be used for re-arguing matters already considered or to revisit conclusions merely because an alternative view is possible. The review jurisdiction cannot be invoked for reappraisal of evidence, reassessment of factual findings, or an endeavour to improve upon arguments previously advanced[1]. It thus follows that the review power conferred under section 13 of the Ordinance cannot be equated with an appellate or revisional jurisdiction. An appeal or revision is, by its very nature, a remedy before a forum superior in rank, status or judicial hierarchy, whereas section 13 authorizes the Ombudsman to revisit its own determination. Therefore, the review contemplated under section 13 does not constitute a

[1] *"Sahib Rai Vs. Custodian of Evacuee Property, South Zone, West Pakistan, Karachi"* **(PLD 1957 SC 63)**, *"Muhammad Khan v. Government of West Pakistan and others"* **(PLD 1971 Baghdad-ul-Jadid 53)**, *"Sh. Mehdi Hassan v. Province of Punjab through Member Board of Revenue and 5 others"* **(2007 SCMR 755)**.

second-tier adjudication nor does it afford a litigant the right to a fresh examination of the controversy on merits; it is merely a narrow procedural mechanism to rectify manifest errors to prevent miscarriage of justice.

9. Having examined the scope of review under section 13, it is now necessary to consider the nature and legal effect of the representation provided under section 14, which reads as under:-

> ***"14. Representation.*** *— (1) Any person or party aggrieved by a decision, order, findings or recommendations of an Ombudsman may file representation to the President within thirty days of the decision, order, findings or recommendations.*
> *(2) The operation of the impugned order, decision, findings or recommendation shall remain suspended for period of sixty days, if the representation is made as per sub -section (1).*
> *(3) The representation shall be addressed directly to the President and not through any Ministry, Division or Department.*
> *(4) The representation shall be processed in the office of the President by a person who had been or is qualified to be a judge of the Supreme Court or has been Wafaqi Mohtasib or Federal Tax Ombudsman.*
> *(5) The representation shall be decided within ninety days."*

A perusal of section 14 reveals that the legislature has created an independent remedial forum in the form of a representation to the President, enabling an aggrieved party to challenge the decision, findings or recommendations of the Ombudsman before a higher constitutional authority. The crucial question that arises here is whether the statutory remedy of representation before the President falls within the meaning of "appeal, revision or review" as contemplated in the proviso to section 3(2) of the Ordinance.

10. The Act, 2013 itself does not label the representation as an "appeal"; however, the Supreme Court has clarified the true nature and scope of such representations. The substance of the remedy, not its nomenclature, is determinative for the purposes of section 3(2) of the Ordinance. In the case of *"Uzma Naveed Chaudhary and others v. Federation of Pakistan and others"* **(PLD 2022 SC 783)**, the Supreme Court held that the forum hearing a representation against the Ombudsman functions as a forum of fact, whose factual findings cannot be reopened by the High Court in constitutional jurisdiction except on grounds of perversity or jurisdictional error. This recognition of fact-finding authority is characteristic of an appellate or revisional forum.

11. In the case of *"Raja Tanveer Safdar v. Tehmina Yasmeen and others"* **(2024 PLC (C.S.) 957)**, the Supreme Court, while discussing representation before the Governor under the Protection against Harassment of Women at the Workplace Act, 2010, held that both the Ombudsperson and the Governor operate as fact-finding authorities. The Governor's order was held to conclude the factual controversy in a manner analogous to an appellate determination. For reference, relevant excerpt from the above judgment is reproduced hereunder:-

> *"12. There is another important issue in the instant case. We note with reference to this case that Respondent No.1 filed her complaint before the Ombudsperson which was then challenged by the Petitioner before the Governor Punjab. Both these forums are forums of fact where parties can lead their evidence for a factual determination. Therefore, the Order of the Governor will be the final order on the factual side, which cannot be*

> *then challenged before the High Court in constitutional jurisdiction in the form and substance of a second appeal on the facts of the case. The High Court cannot interfere in its constitutional jurisdiction on findings of fact recorded by the competent court, tribunal or authority unless the findings of fact are so perverse and not based on the evidence which would result in an error of law and thus, justified interference. Therefore, for all intents and purposes, the factual controversy comes to an end after the Order of the Governor, and if, there is any jurisdictional defect or error and procedural improprieties of the fact-finding forum only then the High Court can interfere. In various matters such as service, family, tax, and customs, this Court has consistently restricted the High Court's powers exercised in the constitutional jurisdiction in terms of determining the factual controversy while simultaneously enhancing the domain of the fact-finding forums."*
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> (Emphasis supplied by this Court).

12. The above jurisprudence demonstrates that where the legislature entrusts a superior constitutional office with the authority to examine the matter on merits, to affirm, modify, or set aside findings, and to bring the factual controversy to its finality, the remedy even if termed "representation", functions in substance as an appellate or revisional process. Accordingly, for the purposes of section 3(2) of the Ordinance, the representation under section 14 of the Act, 2013 qualifies as a statutory remedy equivalent to at least one tier of appeal or revision.

13. Once a substantive remedy akin to an appeal or revision lies under section 14 of the Act, 2013 and has been availed by the aggrieved person i.e. respondent No.4, the bar contained in the proviso to section 3(2) of the Ordinance becomes fully operative. The legislative

intent is clear. Where the statute provides a hierarchical mechanism for scrutiny of the original order, an ICA shall not lie against the order of the learned Single Judge arising from such proceedings. Guidance in this respect is found in the case of *"SME Bank Limited through President Islamabad and others v. Izhar ul Haq"* **(2019 SCMR 939)**.

14. For the foregoing reasons, this Intra-Court Appeal is dismissed as not maintainable.

(ANWAAR HUSSAIN) JUDGE **(RAHEEL KAMRAN) JUDGE**

Approved for reporting.

JUDGE

*Azhar**