JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 663 of 2025

ZOHAIB ARIF

Vs

CHIEF COMMISSIONER, ICT, ISLAMABAD, ETC.

Petitioner by	**:**	**Mr. Naseem Ahmed Shah, Advocate.**
Respondents by	**:**	**Mr. Shafqat Ullah Waris Advocate for the Respondent No.6.**
		Mr. Taimoor Janjua, State Counsel.
Date of hearing	**:**	**28.02.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 **(hereinafter referred to as the "Constitution"),** Zohaib Arif **("Petitioner")** has prayed for the issuance of direction to Respondents Nos.1 to 3 to initiate an inquiry under Section 43 of the Cooperative Societies Act, 1925 **("Act")** against the Respondent No. 6 [Mr. Ali Mehmood, Ex-coopted Secretary, Islamabad Cooperative Housing Society, Islamabad **("Society")**] before holding elections of the Society. The Petitioner has also challenged the Advertisement dated 05.02.2025 **("Impugned Advertisement")** regarding holding the elections of the Society.

2. The brief facts giving rise to the filing of instant Writ Petition are that the Petitioner is a *bonafide* member of the Society, having membership No.T.19785-1. The business of the Society is run by the Management Committee of the Society. Last elections of the Society were conducted in the year, 2022 and the Management Committee was notified vide Notification No.3436/CR/ICT/B dated 16.09.2022 for the period of three years from the date of notification. The Secretary of the Managing Committee of the Society tendered his resignation and after his resignation, a meeting of Managing Committee was convened on 07.08.2024. In the said meeting, the Respondent No. 6 was nominated/appointed as new Secretary of the Managing Committee. After appointment of Secretary of the

Society, the Respondent No. 6 started misplacing the Society record illegally and unlawfully. In this regard, one of the members namely Mr. Imran Iqbal Khan submitted Application dated 12.09.2024 to the Respondent No. 3 [Circle Registrar, Co-operative Societies Department and informed him about the illegalities committed by the newly appointed Secretary of the Society but no action in this regard has been taken by the Respondents Nos. 1 to 3 till today. The Secretary was appointed by 05 members of the Managing Committee out of 09 members, thereafter, the remaining 04 Executive Members of the Managing Committee namely Mr. Sarfaraz Yousaf, Mr. Muhammad Amjid Hassan, Syed Esa Ali Zaidi and Mr. Zaffar Iqbal Ranjha tendered their resignations to the Managing Committee and thereafter on 03.10.2024 to the Respondent No. 2 [Registrar Cooperative Societies, ICT, Islamabad] by mentioning the illegalities and frauds committed by the Secretary in connivance with the Managing Committee. The said resignations were turned down by the Managing Committee vide Order dated 23.10.2024 and being aggrieved by the said order, Executive Members again filed their appeals on 30.10.2024 before the Registrar, Cooperative Societies, ICT for acceptance of their resignations, dissolutions of entire Managing Committee and to conduct inquiry against the illegalities of the Managing Committee as well as newly appointed Secretary. Vide Notification No. 2947/CR/ICT/B dated 11.12.2024, the requests made by four members of the Managing Committee of Society was accepted, all resignations were accepted by the Respondent No. 2 and the entire Managing Committee of the Society was dissolved due to non-availability of required quorum and Assistant Commissioner (Saddar), ICT, Islamabad was appointed as Administrator of the Society for 60 days to run the day to day affairs or until holding of fresh elections of the Society. However, the Respondent No. 2 gave deaf ear to the request for inquiry under Section 43 of the Act. After dissolution of entire Managing Committee of the Society, the majority of the Managing Committee Members filed complaint along with the annexures before the Registrar, Cooperative Societies, ICT, Islamabad on 30.12.2024 against newly appointed Secretary namely Mr. Ali Mehmood (Respondent No.6) for his illegalities, irregularities and fraud committed by him in the Society, wherein it was requested that an inquiry be initiated against the Respondent No. 6 to probe the illegalities and irregularities committed by the Respondent No. 6, but instead of holding of an inquiry, the Respondent No. 2 appointed an Election Commission vide Order No.63/CRC/ICT/B dated 09.01.2025 to hold the Elections of the

Society. On 15.01.2025, the Petitioner along with two other members namely Imran Iqbal and Faisal Hayat filed an appeal before the Respondent No. 1 for directing the Respondent No. 2 to hold an inquiry against the illegalities and irregularities of the Respondent No. 6 but both the above said applications dated 24.12.2024 and 15.1.2025 and Application dated 30.12.2024 filed by the seven members of the Managing Committee remained unheard and no action was taken upon the said applications whereas the Election Commission appointed by the Respondent No. 2 advertised the election schedule in "*Daily Jang"* dated 05.02.2025. Being aggrieved from the non-holding of inquiry against the Respondent No. 6 and the Impugned Advertisement, the Petitioner has filed the instant Writ Petition.

3. The learned counsel for the Petitioner contended that an inquiry against the Respondent No. 6 is crucial, as he allocated hundreds of residential and commercial plots without depositing the transfer fees and sale consideration into the Society's account; that these allocations were made without the approval of the Society's Managing Committee, constituting an illegal and fraudulent act that has affected thousands of the Society's members; that the Respondent No.6 also issued fake and bogus memberships in back dates and the above said act of the Respondent No.6 heeds towards the pre-pole rigging in the elections of the society; that the Respondent No.6 is a property dealer and land provider of the Society, therefore, he was not eligible for the post of Secretary of the Society's Managing Committee; that when the applications were filed by the majority of members of the Managing Committee as well as the Petitioner against the Respondent No. 6, it was the duty of the Respondents Nos. 1 to 3 to hold an inquiry under Section 43 of the Act against the Respondent No. 6 so that illegalities and irregularities committed by the Respondent No.6 could be probed; that the Respondent No.2 while constituting the Election Commission did not consider this aspect that five members of the Managing Committee tendered their resignations due to illegal nomination of the Respondent No. 6 as Secretary of Society; that if the cognizance is not taken upon the applications/complaints dated 24.12.2024, 30.12.2024 and 15.01.2025, an inquiry under Section 43 of the Act is not initiated before the holding of the elections and elections of Society are not postponed till the completion of such inquiry the valuable rights of the Petitioner as well as other members of the Society shall be infringed and they shall also suffer an irreparable

loss; that the actions and omissions of the Respondents are against the fair play and natural justice; that it is well settled principle of law that the discretion vested with the authority is not unbridled but requires to be exercised fairly, justly, honestly and keeping in view the circumstances faced by the concerned; that the Respondents, nevertheless preferred to exercise discretion arbitrary, malafidely, capriciously and whimsically; and that the Petitioner has no other efficacious and speedy remedy except to invoke the Writ Jurisdiction of this Court. Lastly, the learned counsel prayed for issuance of direction to the Respondents Nos. 1 to 3 to initiate an inquiry under Section 43 of the Act against the Respondent No. 6 before holding the elections of the Society and for suspension of the Impugned Advertisement.

4. The learned State counsel and the learned counsel for the Respondent No. 6 resisted the contentions made by the Petitioner and stated that the previous Managing Committee is dissolved, in order to regulate day to day affairs of Society, the authorities given to Deputy Commissioner, Islamabad i.e. Registrar, Cooperative Societies, ICT, Islamabad, and Election Commission has also been appointed for conducting fresh elections of the Managing Committee. The Petitioner's main grievance is against the provisional voter list, for which the Petitioner can file objections before the Election Commission duly appointed for the said purpose and the Petitioner cannot invoke Constitutional jurisdiction of this Court for the said purpose.

5. I have heard the learned counsels for the parties as well as the learned State Counsel and also perused the available record with their able assistance.

6. The primary argument presented by the learned counsel for the Petitioner is that the Provisional Voters List is flawed. He cites specific examples and provides allotment letters for two Society members: M.S. No. T.25440-1/TICHSI dated 21.09.2023 for Ms. Nazira, daughter of Abdullah, and M.S. No. T.25262-1/TICHSI dated 14.02.2023 for Mrs. Mosam Bibi, wife of Mir Baz Khan. However, on the Society's Provisional Voters List for 2025, Muhammad Awais Mustafa is listed at Serial No.1711, and Shahab Mahmood is listed at Serial No.1655, corresponding to the membership numbers of the aforementioned allottees. The Petitioner's contention is that the Society's Provisional Voters List is defective and needs to be verified and corrected before the election. The Petitioner

should approach the Election Commission for this purpose rather than invoking this Court's Constitutional jurisdiction. Regarding the inquiry under Section 43 of the Act against the Respondent No. 6, the matter falls under the jurisdiction of the Chief Commissioner, ICT, Islamabad.

7. For the foregoing reasons, the present Writ Petition is **dismissed** as it is both misconceived and lacking in merit.

(MUHAMMAD AZAM KHAN)
JUDGE

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