JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION. NO. 766 OF 2025

PROVINCIAL COUNCIL OF ISLAMABAD BOY SCOUTS ASSOCIATION

VS

GOVERNMENT OF PAKISTAN, MINISTRY OF FEDERAL EDUCATION & PROFESSIONAL TRAINING ISLAMABAD THROUGH ITS SECRETARY

Petitioner by	**:**	**Mr. Muhammad Aslam Chishti, Advocate.**
Respondent by	**:**	**Raja Zamir-ud-Din and Ms. Asia Batool, AAGs. Dr. Agha Ghulam Haider, Director Legal, Ministry of Federal Education and Professional Training.**
Date of hearing	**:**	**02.05.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the **"Constitution"**), the Petitioner seeks direction to the Respondent for forwarding the case of the Provincial Commissioner, Islamabad Boy Scouts Association (IBSA), to the Chief Scout/President of Pakistan for signature on the Certificate of Appointment.

2. The brief facts of the case, as per the contents of the instant petition, are that the Pakistan Boy Scouts Association **("PBSA")** is a statutory body established under Ordinance XLIII of 1959 and operates in accordance with its rules and statutory orders as published in the Gazette of Pakistan. With the prior approval of the Federal Government, it framed the Pakistan Boy Scouts Rules, 1992, vide SRO 140(KE)/93 dated 27-07-1993. Rule 14 provides for a National Council comprising representatives from Provincial Associations, including the IBSA. As per Rule 3 (amended 2013), PBSA aims to develop youth into responsible citizens through character building, vocational training, and public service, regardless of race, creed, or color. Nine Provincial Associations, including IBSA, function independently under their respective bye-laws and are governed by elected

Provincial Commissioners under Rules 73 and 78. IBSA's Provincial Council, consisting of 35 members, elects its Commissioner for a two-year term. Following the expiry of the previous Commissioner's tenure on 1st April 2024, IBSA held its 35th Council meeting on 31st March 2024 to elect a new Commissioner. Out of 24 participating members, two candidates, Mr. Muhammad Usman and Mr. Tariq Aleem Gill, were found eligible under Rules 78, 86, and 89(1) and IBSA Bye-laws 2010. Upon Mr. Usman's withdrawal, Mr. Tariq Aleem Gill was elected unopposed and, in pursuance of IBSA Notification dated 1st April 2024, assumed charge as Provincial Commissioner, IBSA. As required by Rule 89(1), the appointment requires a Certificate of Appointment from the Chief Scout (President of Pakistan) based on the Council's recommendation. IBSA forwarded Mr. Tariq Aleem Gill's case to the Respondent via letter dated 15th May 2024. However, the matter remains unprocessed and has not been submitted to the President's Secretariat to date. Being aggrieved, the Petitioner has filed the instant writ petition.

3. Learned counsel for the Petitioner argued that the Ministry of Federal Education and Professional Training, Islamabad, is duty bound to act and serve as per the Rules of Business, 1993, and to forward the Certificate of Appointment of the Provincial Commissioner of IBSA to the President Secretariat in light of Cabinet Division Notification No. 7-2/2018-Min-1 dated 4th June 2018 and Ministry of Federal Education and Professional Training Notification No. F.2-1/2017-Admn dated 13th June 2018. The Provincial Council of IBSA, in its 36th meeting (by circulation), expressed grave concern regarding the non-implementation of the decision taken by the Council and constituted a committee comprising Mr. Muhammad Afzal Babar and Mr. Nasir Abbas, members of the Provincial Council, with the assignment to pursue the outstanding matter of IBSA with the Ministry. Accordingly, on the direction of the said committee, IBSA again requested vide letter No. 1-2/2022/Admin dated 10th December 2024 to the Secretary, Ministry of Federal Education and Professional Training, to intervene and resolve the outstanding case, but all efforts proved fruitless. The Petitioner has no other adequate remedy except to invoke the Constitutional jurisdiction of this Court through the instant Writ Petition.

4. On behalf of the Respondent, it is argued that the IBSA was established in 1983 in pursuance of Section 3 of the Pakistan Boy Scouts Association Ordinance, XLIII of 1959, read with Rule 73 of the Pakistan Boy Scouts Association Rules, 1992 (as amended from time to time). The Cabinet Division transferred the business of Scouts activities to the Ministry of Federal Education & Professional Training vide OM No. 7-2/2018-MIN-1 dated 04th June 2018. The Association has its own approved Bye-laws, 1999 (Revised). In terms of the Rules of Business, 1973, Schedule II [Rule 3(3)], Distribution of Business among the Divisions, Para-11(19), matters relating to Boy Scouts and Girl Guides; Youth Activities and Movements, fall within the domain of the Ministry of Federal Education & Professional Training. The case pertains to a request received in the Ministry regarding the appointment of the Provincial Commissioner, IBSA, as elected and recommended by the Provincial Council in its meeting held on 31st March 2024 at the Pakistan Youth Hostel Association, Shaheed-e-Millat Road, Sector G-6/4, Islamabad. Rule 89(1) of the PBSA Rules, 1992 (as amended 2013) provides that the Provincial Commissioner shall be appointed through a Certificate of Appointment signed by the Chief Scout of Pakistan on the recommendation of the Provincial Council after his/her election. Meanwhile, the Chief Commissioner, PBSA, also forwarded a Notification in favor of Ms. Bushra Iqbal Rao, Director ICT (Development / Finance), as Acting Provincial Commissioner, IBSA, in terms of Rule 89(2) of the PBSA Rules, 1992 (as amended 2013), until such time that a new Provincial Commissioner is appointed. It was further stated that the said officer was appointed with the consultation/consent of the Chief Commissioner ICT/Chief Scout of IBSA vide ICT letter No. 8-2/IBSA/Home/2024, dated 02.04.2024. To clarify the matter, the Ministry requested the Chief Commissioner/Chief Scout, ICT IBSA, Islamabad, vide letter dated 7th June 2024, to clarify the position regarding the appointment of the Provincial Commissioner, IBSA at the earliest, before submission of the case for approval of the Honorable President of Pakistan / Chief Scout. No response from the office of the Chief Commissioner ICT/Chief Scout, IBSA was received. The Ministry issued several reminders dated 29th August 2024, 20th November 2024, and 26th December 2024, but no reply was received. It is submitted that the Ministry is constrained due to the confusion caused by the Chief Commissioner, PBSA. Due to the non-response from the Chief Commissioner ICT/Chief Scout of IBSA, the case of the Petitioner

cannot be forwarded for obtaining the Certificate of Appointment of the Provincial Commissioner. It is prayed that the instant Writ Petition be dismissed.

5. I have heard the learned counsel for the parties and perused the record with their able assistance.

6. Perusal of the record shows that PBSAwas constituted pursuant to the provisions of the Pakistan Boy Scouts Association Ordinance, 1959 (hereinafter referred to as the **"Ordinance, 1959"**). In exercise of the powers conferred by Section 3 of the Ordinance, 1959, the PBSA, with the prior written approval of the Federal Government, framed the Pakistan Boy Scouts Association Rules, 1992 (hereinafter referred to as the **"PBSA Rules, 1992"**). The PBSA Rules, 1992 consist of eleven parts relating to principles and policies, organization, provincial associations, regional organization, group organization, decorations and awards, uniform, badges of rank, and certificate of appointments. These Rules were subsequently amended up to 2013. Being a self-contained legal framework, a structured mechanism for appointments and elections of its members, is laid down therein.

7. Rule 73 of the PBSA Rules, 1992, provides that nine Provincial Associations are affiliated with the PBSA. Each Provincial Association may frame its own bye-laws, subject to approval of the Council and provided that such bye-laws are not repugnant to the PBSA Rules, 1992. Each Association has its Provincial Council, which recommends the name of the person for appointment as Provincial Commissioner to the National Headquarters under Rule 79(2) of the PBSA Rules, 1992. In light of the above said Rules, the Petitioner/Provincial Council of IBSA held its 35th meeting on 31.03.2024 to elect the new Provincial Commissioner, IBSA. Out of 35 members, 24 attended the meeting, fulfilling the quorum under Rule 81(1) of the PBSA Rules, 1992, which requires one-third of the total membership.

8. Two candidates, Mr. Muhammad Usman and Mr. Tariq Aleem Gill, submitted consent papers. The Provincial Council's Scrutiny Committee found both eligible under Rules 78, 86, and 89(1) of the PBSA Rules, 1992 and the IBSA Bye-laws, 2010. Upon Mr. Usman's withdrawal, Mr. Tariq Aleem Gill was elected unopposed for a two-year term commencing 31.03.2024. The result was notified

via IBSA Notification dated 01.04.2024. Mr. Tariq Aleem Gill assumed the charge of Provincial Commissioner, IBSA w.e.f. 31.03.2024. The appointment procedure under Rule 89 of the PBSA Rules, 1992 is reproduced herein for reference:-

> ***"89. Provincial Commissioner:***
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> *(1)* ***There shall be Provincial Commissioner who shall be appointed through Certificate of Appointment signed by the Chief Scout of Pakistan on the recommendation of the Provincial Council after his/her election.*** *His/her appointment shall be for a period of two years commencing from the date of election and shall be eligible for re-appointment in the same manner. The Provincial Commissioner shall be a person resident within the area of the Province.*
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> *(2) When the office of the Provincial Commissioner is vacant and where there is no Assistant Provincial Commissioner to act until the vacancy is filled, the functions of that office shall be performed by a person appointed by the Chief Commissioner in consultation with the Chief Scout of the Province, until such time that a new Provincial Commissioner is appointed.*
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> *(3)* ***On receipt of intimation of election of a Provincial Commissioner, the National Headquarters will issue a Certificate of Appointment signed by the Chief Scout of Pakistan and the Chief Commissioner****.*
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> *(4) In the event of the office of Provincial Commissioner fallen vacant before the expiry of his/her term, the Senior Assistant Provincial Commissioner shall act as Provincial Commissioner pending appointment of the new Provincial Commissioner and shall convene the meeting of the Provincial Council to elect the Provincial Commissioner within a period of sixty days from the date of occurrence of the vacancy.*
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> *(5) In case of the election of Provincial Commissioner is not held on or before last date of his tenure, the Senior Assistant Provincial Commissioner will take over the charge and shall convene the meeting of the Provincial Council with concurrence of Chief Scout, to elect the Provincial Commissioner within a period of sixty days from the date of occurrence of the vacancy."* **(Emphasis added)**

The Provincial Commissioner shall be appointed through Certificate of Appointment signed by the Chief Scouts of Pakistan, i.e., the President of Pakistan, on the recommendation of the Petitioner/Provincial Council, IBSA, after his election. The case of the elected Provincial Commissioner, namely Mr. Tariq Aleem Gill, was forwarded by the Petitioner/Provincial Council to the Respondent for obtaining the Certificate of Appointment from the President of Pakistan/Chief Scout of Pakistan vide IBSA letter dated 15.05.2024, but the matter remains

pending till date. The Respondent has failed to submit it to the President's Secretariat.

9. Meanwhile, the Chief Commissioner, PBSA, also issued a Notification dated 02.04.2024 appointing Ms. Bushra Iqbal Rao, Director ICT (Development/Finance), as Acting Provincial Commissioner, IBSA, under Rule 89(2) of the PBSA Rules, 1992, to serve in this capacity until a new Provincial Commissioner is appointed. The said officer was appointed with the consultation/consent of Chief Commissioner ICT/Chief Scout of IBSA vide ICT letter No. 8-2/IBSA/Home/2024, dated 02.04.2024. It is pertinent to mention herein that IBSA, vide letter dated 21-03-2024, specially invited the Chief Scout of IBSA to preside over the 35th meeting of the Provincial Council, IBSA, however, he was unable to attend due to official engagements. The meeting was chaired by the Senior Assistant Provincial Commissioner, IBSA, as per the procedure laid down in the PBSA Rules, 1992, after which the Notification and Charge Assumption Report dated 01-04-2024 were issued in favor of Mr. Tariq Aleem Gill.

10. Bare reading of Rule 89 (2) of the PBSA Rules, 1992, ostensibly shows that there are two mandatory circumstances under which a person can be appointed by the Chief Commissioner, PBSA in consultation with the Chief Scout of the Province that are mentioned herein below: -

> ***a)*** *The office of the Provincial Commissioner is vacant; and*
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> ***b)*** *Where there is no Assistant Provincial Commissioner to act until the vacancy is filled.*

Only in the abovementioned circumstances, the functions of the Provincial Commissioner can be performed by a person appointed by the Chief Commissioner in consultation with the Chief Scout of the Province, until such time that a new Provincial Commissioner is appointed. The record shows that not only a Senior Assistant Provincial Commissioner was already present and available, who had presided over the 35th meeting, but the office of the Provincial Government was also not vacant, as the candidate had been elected on 31-03-2024. As the two conditions under Rule 89 (2) were not prevalent at the time of issuing the Notification dated 02-04-2024 by the Chief Commissioner, PBSA, the

appointment of Ms. Bushra Iqbal Rao as Acting Provincial Commissioner is, therefore, contrary to the law. Furthermore, Ms. Bushra Iqbal Rao, serving in the capacity of Director ICT (Development/Finance), was not eligible for the appointment as Acting Provincial Commissioner as the said position, under the applicable Rules, was only to be held by the Senior Assistant Provincial Commissioner.

11. Rule 89 of PBSA Rules, 1992 is unambiguous and leaves no room for confusion. The elections were conducted in accordance with the Rules. The name of the elected Provincial Commissioner was duly recommended by the Petitioner/Provincial Council to the Respondent for obtaining the Certificate of Appointment from the President of Pakistan/Chief Scout of Pakistan vide IBSA letter dated 15.05.2024. Therefore, the Respondent is duty bound to forward the recommendation of the Petitioner/Provincial Council, IBSA to the President Secretariat in light of Cabinet Division Notification No.7-2/2018-Min-1 dated 4th June 2018 so that the elected Provincial Commissioner can be appointed through Certificate of Appointment signed by the Chief Scout of Pakistan/President of Pakistan.

12. The Respondent is not vested with the power to withhold the recommendation of the Provincial Council, IBSA on the pretext of confusion. The election held and the recommendation made thereafter has been carried out in accordance with the law. Although the Respondent had sent letters dated 07-06-2024, 29-08-2024, 20-11-2024 and 26-12-2024 to the Chief Commissioner/Chief Scout, IBSA requesting to clarify the position regarding the appointment of Provincial Commissioner, IBSA before submitting the case for approval from the President of Pakistan/Chief Scout of Pakistan, however, the Chief Commissioner/Chief Scout, IBSA never bothered to respond. It is essential to mention herein that under Rule 89 (3) read with Rule 214 (2) of the PBSA Rules, 1992, the Certificate of Appointment has to be signed by both the Chief Scout of Pakistan/the President of Pakistan as well as the Chief Commissioner, PBSA.

13. In light of the above discussion, the instant Writ Petition is **allowed.** The Respondent is hereby directed to forward the recommendation of the Petitioner to the President Secretariat for obtaining the Certificate of Appointment signed by

the Chief Scout of Pakistan/the President of Pakistan strictly in accordance with the Rule 89 (1) of PBSA Rules, 1992. Moreover, the Notification dated 02-04-2024 issued by the Chief Commissioner, PBSA qua the appointment of Acting Provincial Commissioner is hereby **set aside** as the same has been issued contrary to the procedure laid down in Rule 89 of PBSA Rules, 1992. The Chief Commissioner, PBSA is also directed to follow the instructions strictly in accordance with Rule 89 (3) read with Rule 214 (2) of the PBSA Rules, 1992. The Certificate of Appointment, to be signed by the Chief Scout of Pakistan/the President of Pakistan and the Chief Commissioner, PBSA, must be obtained within a period of thirty days from the receipt of attested copy of this Order.

(MUHAMMAD AZAM KHAN)
JUDGE

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