JUDGMENT SHEET

ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No. 1625 of 2025

Muhammad Younas Bajwa and another

Vs.

Chief Commissioner, ICT, Islamabad.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	19.05.2025.	Sardar Gull Nawaz Khan, Advocate for the petitioner. Mr. Tasawar Iqbal, Advocate for the repsondents. Mr. Qasim Ibal, Advocate in C.M. No. 1778/2025. Ch. Zulqarnain, State Counsel.

MUHAMMAD ASIF, J. Through the instant petition, the petitioner seeks direction to the respondents No. 1,2,4 to 6 to handover the keys of the Islamabad Boys Scouts Association immediately to the petitioner and the respondents No. 3 be directed to handover the keys of the office of Boys Scouts Assocation to the petitoner/management and restrain them from interfering into the affairs of the petiotner/management in furture.

2. Learned counsel for the petitioner contended that the Boy Scouts Association operates nine branches across the four provinces of Pakistan, with the respective Governors of each province serving as Chief Scouts. However, in the Islamabad Capital Territory (ICT), where no Governor is appointed, there exists a legal lacuna as the relevant rules are silent that who may assume the role of Chief Scout. Consequently, the Chief

Commissioner, ICT, lacks the legal authority to act as the Chief Scout of the Islamabad Boy Scouts Association **("IBSA").** It was further argued that the Director Administration summoned the management of IBSA for a meeting with the Chief Commissioner, ICT. In compliance, Mr. Tariq Aleem Gill, the Provincial Commissioner and member of the Provincial Council of IBSA, attended the said meeting on 22.04.2025. During the meeting, a detailed presentation was made covering various significant issues relating to Boy Scouts activities and other associated matters. Upon conclusion of the presentation, the Chief Commissioner directed the management to submit a written brief or proposal within the next three working days, addressing matters including the composition of the Provincial Council, Executive Committee, the current employees, budgetary allocations, and expenditures. It was further added that the Provincial Council, through its representatives, agreed to comply with the said directive and undertook to submit the required documentation in writing on 22.04.2025. After the meeting concluded, the management returned to the IBSA office to prepare and compile the requisite material for submission to the Chief Commissioner. However, without any prior notice or legal authority, the Assistant Commissioner (City), accompanied by security personnel, entered the premises of the IBSA and demanded that the management to hand over the keys of the office and vacate the premises immediately. When the management inquired about the legal basis for such action and termed it unlawful, unauthorized, and contrary to moral and administrative norms, the Assistant Commissioner stated that she was acting under direct

instructions from the Chief Commissioner, ICT. She then forcibly took possession of the keys and departed from the premises. The Provincial Council duly brought the matter to the notice of the Chief Commissioner, Islamabad, through a written communication dated 24-04-2025. However, the Chief Commissioner failed to respond, demonstrating indifference and disregard towards the issues raised. As a consequence, all official documents, records, files, personal data, computers, and other materials belonging to the petitioner's management remain inaccessible within the premises, thereby severely disrupting the ongoing operations and functions of the Boy Scouts. It was further added that all members of the Provincial Council have been rendering voluntary services to the organization without deriving any financial benefit from the Government of Pakistan. Nevertheless, the non-cooperative and high-handed conduct of the Chief Commissioner, Islamabad Capital Territory, towards the Provincial Council and its members/employees is not only unwarranted and objectionable but has also resulted in public disregard and damage to the reputation and functioning of the organization. Hence, instant petition may be allowed.

3. The respondent No. 1,2,3,4,5 and 6 filed their written comments in compliance of the order passed by this Court in the instant petition, wherein it has been submnitted that the petitioner sought the determination of factual controversy through filing of the instant writ petitoner, which is not the mandate of law as given in terms of the Article 199 of the Constitution of Islamic Repulbic of Pakistan, 1973, (**"**the **Constituion"**). It has

further been submitted that the petitioner has misconceived the law governing the subject place which, primarily lies in Pakistan Boy Scouts Assoication Ordinance, 1959 whereunder rules are framed as Pakistan Boy Scouts Association Police-Organization Rules (**"**the **Rules"**). The provincial Association are formed and function in terms of Part III of the Rules. The petitoner has not highlighted any violation of any of the provision of the Ordinance or the Rules mentioned supra. As per written comments the Rule specify that the Provincial Association may funation in Iccordance with the rules formed by them but staturoy rules have since been framed in this regard. As such, the writ petition merits dismissal on this score alone and that the case of the area of operations, scope of functions and nature of performance of the IBSA was examined at the office of Chief Commissioner Islamabad Capital Territory in his capacity of Chief Schout. IBsa fave an unsatisfactory representation regarding the channels, management and disbursement of funds etc, and overall management of the organization; that this lack of delivery and performance is also marked and accentuated by the internal division and rift between the rival groups that are bent on politicizing whole organization. The probe which delved in studying the subjects stated supra reflected a sorry and sordid state of affairs at the IBSA. The factor which serves a shattering blwo to the organizational structure of IBSA is the fact that the scouting itself has been remained dormant and discontinued for last three yers. This review further revealed that the IBSA has been saddled with inefficient management which has hopelessly failed in giving directions to or steering

inefficient management whch has hopelessly failed in giving directions to or steering IBSA out of this performance quagmire. The respondent No. 1, thus, urged to take appropriate measures in order to have the record and workings of IBSA audited properly and defragmented in a manner so as to bring the organization at the level of expected proficiency.

4. Arguments heard, record perused.

5. Perusal of the record indicates that the *Islamabad Boy Scouts Association* (IBSA) was initially established under the Ordinance of 1959. Subsequently, in the year 1992, the Federal Government formulated rules governing the *Pakistan Boy Scouts* (PBS), which were formally notified in 1993. In accordance with these rules, the PBS functions under the administrative control of the Ministry of Federal Education and Professional Training, which oversees and manages all matters pertaining to the organization. The Pakistan Boy Scouts operates through nine regional branches located across the four provinces, with additional branches established in Islamabad, Azad Jammu and Kashmir, Pakistan Railways, Pakistan International Airlines (PIA), and Gilgit-Baltistan. The principal objective of the organization is to advance and promote the formal education and character development of the youth of Pakistan. Pursuant to the rules, the President of the Islamic Republic of Pakistan serves as the Chief Scout at the National level. Furthermore, the Governors of each province are designated as Chief Scouts within their respective jurisdictions. However, in the case of the Islamabad Capital Territory, where no

Governor is appointed, the rules remain silent on the designation of a Chief Scout for the said territory.

6. A meeting was held on 22.04.2024, wherein minutes of meeting was issued through Memorandum dated 15.05.2024 to review the performance, activities, and organizational structure of the Islamabad Boy Scouts Association (IBSA) under the chairmanship of the Chief Commissioner, ICT/Chief Scouts, Islamabad, in the office of the Chairman, CDA Headquarters, Islamabad. The meeting was attended by the office bearers of Islamabad Boys Scouts and officers of ICT Administration. The Provincial Commissioner, IBSA, Mr. Tariq Aleem Gill, briefed the participants on the role, functions, and activities of the IBSA. However, the Chief Commissioner, ICT / Chief Scout, IBSA, expressed dissatisfaction with both the content and delivery of the presentation. He specifically expressed concern that no significant scouting activities had taken place in Islamabad over the past few years, raising questions about the Association's effectiveness. The Chief Commissioner also noted that only a limited number of students-i.e., 20,000 are currently registered with the IBSA, as stated by the Provincial Commissioner, which, he said, clearly reflects a lack of outreach and activity at the grassroots level. Another matter of concern raised during the meeting was the appointment of Mr. Younis Bajwa as Provincial Secretary. Mr. Bajwa himself stated that he had no prior scouting background, which goes against the spirit of such a leadership role. It was also noted that, while Scout Associations from other provinces have been sending scouts abroad, IBSA's

participation in international programs remains extremely limited. In terms of administrative and financial matters, the Chief Commissioner, ICT / Chief Scouts directed that a detailed audit report be presented to him. The Director Finance was instructed to streamline financial operations and submit a detailed report that includes a complete breakdown of ERE and non-ERE expenditures from the year 2020 onward. Additionally, it was decided that the experience, details, and CVs of honorary elected members of IBSA should be collected and shared for review. The Chief Scout showed dissatisfaction over the work done by the Executive Committee and the Finance Committee of IBSA. He directed Director (Dev/Finance), ICT, to assess the work done. Furthermore, the Chief Commissioner, ICT / Chief Scouts sought clarity on the basis and criteria used for dividing the organization into different divisions and district. The Management of IBSA was also asked to prepare a report detailing the participation of scouts in environmental campaigns and community initiatives. Lastly, the Director Finance was given the responsibility to prepare a comparative report showing scouting activities across all provinces over the last three years. The meeting concluded with a directive to all concerned officers and committees to submit the required reports and data promptly. A follow-up meeting will be scheduled after submission of all documents for further review.

7. As per the minutes of the meeting dated 22.04.2024, a review session was held to assess the performance, activities, and organizational structure of the Islamabad Boy Scouts Association (IBSA). During

the meeting, the Chief Commissioner, expressed dissatisfaction with both the substance and delivery of the presentation made by IBSA and raised serious concerns regarding the lack of meaningful scouting activities in recent years. Further dissatisfaction was noted in relation to the performance of the Executive and Finance Committees of IBSA, prompting a directive for a formal evaluation to be conducted by the Director (Development/Finance), ICT. Additionally, the management of IBSA was instructed to prepare a report detailing scout participation in environmental and community service programs, along with a comparative report of provincial scouting activities over the past three years. All relevant officers and committees were directed to submit the required documentation without undue delay, and it was decided that a follow-up meeting would be convened upon receipt and review of the said submissions.

8. However, it is pertinent to note that no direction or order was issued in the said meeting for the closure or sealing of the IBSA office. Furthermore, no speaking order or formal written directive from Respondent No. 1 authorizing such closure or sealing action is available on record. The absence of such lawful authority and documentation renders the act of sealing the office arbitrary and violative of the fundamental rights guaranteed to the petitioner organization under the Constitution.

9. Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973 prescribes that:

> " … 4. Right of individuals to be dealt with in accordance with law, etc. (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen. Wherever he may be, and of every other person for the time being within Pakistan. (2) In particular— (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law; (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and (c) no person shall be compelled to do that which the law does not required him to do."

10. The Honourable Supreme Court of Pakistan, in the case reported as *Ch. Manzoor Elahi v. Federation of Pakistan*, while interpreting the relevant statutory provision, held that it is the duty of the High Court, in exercise of its constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, to ensure the enforcement of the fundamental rights enshrined in Article 4 of the Constitution:-

> " … In my opinion, the powers given to a High Court under Article 199 of the Constitution is wide enough to cover not only a case of infringement of Fundamental Right as contained in Part I of the Constitution, but also to enforce the inalienable right of a citizen as mentioned under Article 4 of the Constitution which runs thus:-
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> "4. (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.
> (2) In particular-
> (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;
> (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and
> (c) no person shall be compelled to do that which the law does not require him to do.
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> **It has been contended in this context that there is no remedy provided by the Constitution to enforce the rights and obligations mentioned in Article 4. The contention is misconceived. In the first place, the injunctions contained in Article 4(2) are not only mandatory but they are also clothed in prohibitory**

language which indicate that the provisions are self-executing and no legislation is necessary to give effect to them. The rules of interpretation of a written Constitution as reproduced above support this view. Apart from the question of any machinery to enforce the right or obligation, as I have said earlier, nobody is relieved of the obligation to comply with them. In the second place, I am unable to conceive that a right or obligation so clearly and solemnly given or put can be without a content, meaning or purpose. Unless, therefore, on an examination of the Constitution I am led to the inevitable conclusion that the Courts are powerless to enforce the inalienable right or the obligation mentioned in Article 4, I am of the opinion that the Courts are bound to give the Article a meaning and a purpose. I have, however, already noticed that Article 199 of the Constitution gives indeed wide powers to a High Court to act for the enforcement of the rights and obligations mentioned in Article 4 of the Constitution.

Article 4 may be compared `with the due process of law in the American Constitution. The case of *Government of West Pakistan v. Begum Agha Abdul Karim Shorish Kashmiri* **(P L D 1969 S C 14),** supports this view. In the case under report Article 2 of the 1962 Constitution which is corresponding to Article 4 of the Constitution was considered and the Court observed as follows:-

> " The words `in an unlawful manner' in subclause (b) of Article 98 (2) have been used deliberately to give meaning and content to the solemn declaration under Article 2 of the Constitution itself that it is inalienable right of every citizen to be treated in accordance with law and only in accordance with law. Therefore, in determining as to how and in what circumstances a detention would be in an unlawful manner one would inevitably have first to see whether the action is in accordance with law, if not, then it is action in an unlawful manner. Law is here not confined to statute law alone but is used in its generic sense as connoting all that is treated as law in this country including even the judicial principles laid down from time to time by the superior Courts. It means according to the accepted forms of legal process and postulates a strict performance of all the functions and duties laid down by law. It may well be as has been suggested in some quarters, that in this sense it is as comprehensive as the American 'due process'

> clause in a new garb. It is in this sense that an action which is mala fide or colourable is not regarded as action in accordance with law. Similarly, action taken upon extraneous or irrelevant considerations is also not action in accordance with law. Action taken upon no ground at all or without proper application of the mind of the detaining authority would also not qualify as action in accordance with law and would, therefore, have to be struck down as being action taken in an unlawful manner."

As can be seen, under Sub-Article (1) of Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973, every citizen of Pakistan has a right to enjoy the "protection" of the law and which right is classified by that Article as an "inalienable" right. Sub-Article (2) of Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973 clarifies clause (a) of Sub-Article (1) Article 4 by stating that no action can be taken which impinges on "the life, liberty, body, reputation or property of any person except in accordance with law;" Clause (b) of Sub-Article (1) Article 4 further elaborates the principle that what is not "prohibited by law is permitted"; Clause (c) of Sub-Article (1) Article 4 also states that no person can be compelled to act in a manner not mandated by law. This provision of the Constitution to our mind embodies the principles of the Rule of Law and without which any civilized society cannot function.

We are also of the opinion that such a mandate extends to this Court while exercising its Jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1979 as the provision of that Article beings with the expressions "Subject to the Constitution" and as such we also are compelled to ensure that while passing any Order we too do not fall afoul of Article 4 of the Constitution of the Islamic Republic of Pakistan, 1979. It is therefore incumbent on us to examine whether there is any law which exists which controls the rights of the Petitioner as guaranteed under Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973.

11. Nothing has been placed on record by the respondents to establish that the closure of the petitioner's office was legal and lawful. It appears that Respondent No. 4 acted illegally, unlawfully, and in excess of his lawful authority in closing the office of the Pakistan Boy Scouts Association, thereby infringing upon the fundamental rights guaranteed under the Constitution of the Islamic Republic of Pakistan.

12. In view of the foregoing, the instant Writ Petition is hereby **disposed of** with a direction to Respondent No. 1, i.e. the Chief Commissioner, Islamabad, to conduct a thorough inquiry regarding the matter in question and the individuals responsible for the illegal and unlawful closure of the office of the Islamabad Boy Scouts Association, particularly in the absence of any speaking order justifying the actions of the Assistant Commissioner (City), who is alleged to have exercised authority in a personal capacity. The Chief Commissioner, Islamabad, is further directed to resolve the matter within seven (07) days from the date of receipt of this order and shall submit a comprehensive report of the inquiry findings to the Additional Registrar (Judicial) of this Court.

(MUHAMMAD ASIF)
JUDGE

Announced in an open Court on _____

JUDGE

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