

JUDGMENT SHEET
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT
JUDGMENT

I.C.A. No.53628/2024

Federation of Pakistan through **VS.** Ashba Kamran etc.
Secretary, Ministry of Interior,
Government of Pakistan

Date of hearing	15.01.2025
Appellant by	Mr. Nasar Ahmad, Deputy Attorney General Ch. Naseer Ahmed Gujjar, Assistant Attorney General Muhammad Zain Qazi, Assistant Attorney General
Respondent No.1 by	In person

Ch. Muhammad Iqbal, J:- Through this intra court appeal the appellant has challenged the validity of judgment dated 06.09.2024 passed by the learned Single Judge in Chamber whereby Writ Petition No.12091/2024 was allowed and the appointment of the Chairman, NADRA was declared without lawful authority.

2. Brief facts of the case are that the Lt. Gen. Muhammad Munir Afsar was appointed as Chairman, National Database and Registration Authority [hereinafter referred to as “NADRA”] by Ministry of Interior, Government of Pakistan [Caretaker] through notification No.10/1/2023-NADRA dated 02.10.2023 with immediate effect until further orders by invoking powers conferred under Section 3(3) of the National Database and Registration Authority Ordinance, 2000 [hereinafter referred to as “Ordinance, 2000”] read with Rule 7A of NADRA (Appointment and Emoluments of Chairman and Members) Rules, 2020 [hereinafter referred to as “Rules, 2020”]. The respondent No.1

challenged the said appointment through Writ Petition No.12091/2024 on the ground that the appointment of Chairman, NADRA is contrary to spirit of Section 34 of Ordinance, 2000. The amendment in the Rules, 2020 made by the Caretaker Government on 07.08.2023 is ultra-vires to the Ordinance, 2000. The learned Single Judge in Chamber allowed the writ petition of respondent No.1 vide judgment dated 06.09.2024. Hence, this appeal.

3. Arguments heard. Record perused.

4. As the matter in issue originates from the action of a Caretaker Government done under Section 230 of the Elections Act, 2017, thus firstly it is necessary to have a glance at the functions of Caretaker Government in the aforesaid provision, which is reproduced as under:

“230. Functions of caretaker Government.—(1) A caretaker Government shall—

- (a) perform its functions to attend to day-to-day matters which are necessary to run the affairs of the Government;
- (b) assist the Commission to hold elections in accordance with law;
- (c) restrict itself to activities that are of routine, non-controversial and urgent, in the public interest and reversible by the future Government elected after the elections; and
- (d) be impartial to every person and political party.

(2) The caretaker Government shall not—

- (a) take major policy decisions except on urgent matters;
- (b) take any decision or make a policy that may have effect or pre-empt the exercise of authority by the future elected Government;
- (c) enter into major contract or undertaking if it is detrimental to public interest;
- (d) enter into major international negotiation with any foreign country or international agency or sign or ratify any international binding instrument except in an exceptional case;
- (e) make promotions or major appointments of public officials but may make acting or short term appointments in public interest;

(f) transfer public officials unless it is considered expedient and after approval of the Commission; and

(g) attempt to influence the elections or do or cause to be done anything which may, in any manner, influence or adversely affect the free and fair elections:

Provided that sub-sections (1) and (2) shall not apply where the caretaker Government has to take actions or decisions regarding existing bilateral or multilateral agreements or the projects already initiated under the Public Private Partnership Authority Act, 2017 (VIII of 2017), the Inter-Governmental Commercial Transactions Act, 2022 (XXX of 2022) and the Privatization Commission Ordinance, 2000 (LII of 2000).

(3) The Prime Minister, Chief Minister or a Minister or any other members of a Caretaker Governments shall, within three days from the date of assumption of office, submit to the Commission a statement of assets and liabilities including assets and liabilities of his spouse and dependent children as on the preceding 30th day of June on Form B and the Commission shall publish the statement of assets and liabilities in the official Gazette.

(4) In this section, caretaker Government means the caretaker Federal Government or a caretaker Provincial Government.”

The Caretaker Federal Government by using the power under the aforesaid provision of the Act *ibid* read with Section 44 of the Ordinance 2000 made amendment in Rules, 2020 and inserted Rule 7(A) through notification dated 13.09.2023 which notification is reproduced as under:

**“TO BE PUBLISHED IN THE NEXT ISSUE OF THE
GAZETTE OF PAKISTAN (PART-II)**

**Government of Pakistan
Ministry of interior**

Islamabad, the 13th September, 2023

NOTIFICATION

S.R.O..... (1)/2023. In exercise of the powers conferred by section 44 of the National Database and Registration Authority ordinance 2000 (VIII of 2000), the Federal Government is pleased to direct that the following amendment shall be made in the National Database and Registration Authority (Appointment and Emoluments of Chairman and Members) Rules, 2020, namely:-

In the aforesaid Rules, after rule 7, the following new rule shall be inserted, namely:-

“7A. Secondment or deputation. Notwithstanding anything contained in these rules, the Federal Government may, when it considers expedient in national interest, appoint any serving officer of the service of Pakistan, not below the rank and status of BPS-21, as Chairman on secondment or deputation for such term or terms as provided for in subsection (5) of section 3 of the Ordinance.

[No.1/1/2023-NADRA]

(**Rana Muhammad Irfan Ul Haq**)
Deputy Secretary (Org)

The Manager,
Printing Corporation of Pakistan Press,
Islamabad.”

Under Section 44 of the Ordinance, 2000, Federal Government is competent to make rules for carrying out the purposes of Ordinance, 2000. For ready reference, Section 44 of the Ordinance, 2000 is reproduced as under:

“44. Power to make rules. The Federal Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance:

Provided that till the time any amendments are made or any fresh rules are made in this behalf, the rules made under section 15 of the National Registration Act, 1973 (LVI of 1973) and in force at the time of the establishment of the Authority shall be applied as nearly as practicable in the same manner as before to the extent the same are not inconsistent with the provisions of this Ordinance with any references to the Registrar General, Director General Registration Organization, or any competent authority by whatever nomenclature therein to be deemed to be a reference to the Authority.”

Further, under Section 3(3) & (5) of the Ordinance, 2000, Federal Government is competent to appoint Chairman and Members of NADRA. For ready reference, aforesaid provision is reproduced as under:

“3. Establishment of the Authority.

(3) The Authority shall consist of a Chairman, also to be called the Registrar General of Pakistan, and not less than five members to be appointed by the Federal Government:

Provided that till such time the Authority is established the Chairman may exercise the powers and perform the functions of the Authority:

Provided further that the Federal Government may, from time to time, by notification in the official Gazette, increase or decrease the number of members and prescribe mode of their appointment as it may deem fit.

4....

(5) The Chairman and a member shall, unless he resigns or is removed from office earlier as hereinafter provided, hold office for a term of three years and shall be eligible for reappointment for a similar term or terms as the Federal Government may determine.”

The Federal Government while exercising powers conferred by Section 3 and Section 44 read with Sections 4, 5, 33 and 34 of the Ordinance, 2000 made the Rules, 2020 prescribing the mode of appointment and emoluments of the Chairman and Members of NADRA. The Caretaker Federal Government by invoking jurisdiction under Section 230 of the Elections Act, 2017 and in terms of Section 3(3) & 3(5) of the Ordinance, 2000 amended Rule 7A of Rules, 2020 vide notification dated 13.09.2023 and thereafter appointed Chairman, NADRA with immediate effect and until further orders vide notification dated 02.10.2023. For ready reference, said notification is reproduced as under:

“TO BE PUBLISHED IN THE NEXT ISSUE
OF THE GAZETTE OF PAKISTAN PART-I

**Government of Pakistan
Ministry of interior**

No.10/1/2023-NADRA Islamabad, the 02nd October, 2023

NOTIFICATION

In exercise of powers conferred under section 3 (3) of the National Database and Registration Authority (NADRA) Ordinance 2000, read with Rule 7A of NADRA (Appointment and Emoluments of Chairman and Members) Rules, 2020 the Federal Government has been pleased to appoint Lieutenant General Muhammad Munir Afsar as Chairman NADRA in

terms of Section 3 (5) of NADRA Ordinance, 2000 with immediate effect and until further orders.

2. Terms and conditions of his appointment including emoluments will be determined separately.

(Dr. Mudassar Rehman)
Section Officer (NADRA)

The Manager,
Printing Corporation of Pakistan Press,
Islamabad.”

The respondent No.1 challenged the aforesaid order/notification through writ petition [No.12091/2024] and made following prayer therein:

“In view of the above-mentioned circumstances, it is respectfully prayed that this petition may very kindly be accepted and the appointment of Chairman NADRA be declared illegal, unlawful, void ab initio.

It is further prayed that the selection committee may kindly be proceeded in accordance with law for violation committed on multiple counts while appointing the Chairman NADRA.”

The aforesaid writ petition was filed on 22.02.2024. During the pendency of the writ petition, after general elections, incumbent elected Federal Government took charge and in terms of Rule 17(1)(b) read with Rule 19 (1) of the Rules of Business, 1973 endorsed the insertion of Rule 7(A) of Rules 2020 vide notification dated 28.03.2024. For ready reference, notification dated 28.03.2024 is reproduced as under:

“TO BE PUBLISHED IN THE OFFICIAL GAZETTE OF PAKISTAN

Government of Pakistan
Ministry of interior

Islamabad, the 28th March, 2024

NOTIFICATION

In furtherance of this Ministry’s Notification dated 13th September 2023, the Federal Government is pleased to confirm the insertion of Rule 7A in NADRA (Appointment and Emoluments of Chairman and Members) Rules, 2020.

In the aforesaid Rules, after rule 7, the following new rule shall be inserted, namely:-

“7A. Secondment or deputation.-Notwithstanding anything contained in these rules, the Federal Government may, when it considers expedient in national interest, appoint any serving officer of the service of Pakistan, not below the rank and status of BPS-21, as Chairman on secondment or deputation of such term or terms as provided for in sub-section (5) of section 3 of the Ordinance.

[No.1/1/2023-NADRA]

(Dr. Mudassar Rehman)
Section Officer (NADRA)

The Manager,
Printing Corporation of Pakistan Press,
Islamabad.”

After endorsing the Rule 7A of the Rules, 2020, the elected incumbent Federal Government issued fresh notification dated 28.03.2024 of Chairman, NADRA confirming his appointment, which is reproduced as under:

“TO BE PUBLISHED IN THE NEXT ISSUE
OF THE GAZETTE OF PAKISTAN

Government of Pakistan
Ministry of interior

No.10/1/2023-NADRA Islamabad, the 28th March, 2024

NOTIFICATION

In furtherance of this Ministry’s Notification dated 2nd October 2023, the Federal Government has been pleased to confirm the appointment of PA-29170 Lieutenant General Muhammad Munir Afsar, HI (M), as Chairman NADRA for a term of three years from the date of his original appointment, as outlined in section 3 (5) of the NADRA Ordinance, 2000.

(Dr. Mudassar Rehman)
Section Officer (NADRA)

The Manager,
Printing Corporation of Pakistan Press,
Islamabad.”

This fact was brought on record on 29.03.2024 and 04.04.2024 during the pendency of the writ petition and the said notifications, both dated 28.03.2024 were placed on record through an application (C.M. No.2/2024). On 04.04.2024, the respondent No.1 appeared in person and sought time to examine the afore-referred notifications/documents. On 22.04.2024, the learned Single Judge in Chamber observed that if respondent No.1 feels appropriate, she can file an application for amendment in the petition but the respondent No.1 did not file any such application.

5. Despite given an opportunity to amend the petition after the issuance of two new subsequent notifications issued by the Federal Government as elaborated above, the respondent No. 1 filed another Writ Petition [No.54258/2024] and challenged the amendment confirmed by the Federal Government in Rule 7A of Rules, 2020 and the appointment/confirmation of Chairman, NADRA. The said writ petition was dismissed as withdrawn on 19.09.2024. The respondent No.1 filed review petition [No.60697/2024] for setting aside the order dated 19.09.2024 which was disposed of being not pressed on 04.10.2024.

These facts are sufficient to prove that the respondent No.1 did not challenge the fresh notifications confirming the insertion of Rule 7A of Rules, 2020 as well as appointment of Chairman, NADRA. Hence, the writ petition of respondent No.1 became infructuous on the ground that the subsequent fresh issuance of the notification dated 28.03.2024 regarding the confirmation of Rule 7(A) of the Rules, 2020 by the elected Federal Government and notification dated 28.03.2024 confirming the appointment of Chairman NADRA were not under challenged before the learned Single Judge in Chamber.

6. The learned Single Judge in Chamber in a *suo moto* action, brushed aside the Rule 7(A) of Rules, 2020

inserted/endorsed by the incumbent elected Federal Government on 28.03.2024 and appointment of Chairman, NADRA. The learned Single Judge in Chamber in paragraph No.20 of impugned judgment dated 06.09.2024 while dismissing the objections raised regarding the jurisdiction noted as under:

“20. In view of the above, objection to the assumption of jurisdiction is dismissed, and it is held that court is empowered to inquire and determine that if exercise of authority by the Executive/Federal Government, in the guise of Rule-7A of the Rules, 2020, is authorized by, or otherwise, consistent with the terms of delegation under the enactment and purpose thereof.

I now proceed to decide the underlying controversy that ‘whether act of direct appointment of respondent No.6 is legally covered within the terms of delegation and is in accord with the conditions prescribed, regarding appointment of Chairman, in the enactment, which is the Ordinance, 2000.’”

It is well-settled law that High Court cannot take *suo moto* action as no such jurisdiction is vested in it. Reliance in this regard is placed on a latest judgment dated 20.11.2024 passed by the Hon'ble Supreme Court of Pakistan in **Civil Petition No.767 of 2022** titled as Federal Government Employees Housing Authority through its Director General, Islamabad Vs. Ednan Syed and others, the relevant portion whereof is reproduced as under :

“12. This Court has consistently ruled that the High Courts do not have suo motu jurisdiction and as such the constitutional scheme never intended to confer such powers on the High Courts. This Court in the Abdullah Jumani judgment, authored by one of us (Muhammad Ali Mazhar, J.), has held that the High Court cannot assume suo motu jurisdiction by overreaching or overstretching its constitutional limits. It is constitutionally impermissible for the courts to expand and enlarge their jurisdictional domain, which is neither allowed by the Constitution nor by the law. In the Taufiq Asif case, this Court has held that the High Court cannot grant a relief, which is not even sought in the petition. As per the Akhtar Abbas case, ‘it is settled law that in writ proceedings, the relief must be confined to the prayer made in the writ petition and the High Court cannot issue a writ suo motu’. Hence, in view of the dictum laid down by this Court, the High Court cannot on its motion declare the policy as unconstitutional and illegal.”

(emphasis supplied)

In a case the learned Division Bench of Peshawar High Court on receipt of information from PSO to the Hon'ble Chief Justice, Peshawar High Court, Peshawar took action and passed judgment 26.08.2013. The Hon'ble Supreme Court of Pakistan reversed the judgment dated 26.08.2013 in its judgment cited as Dr. Imran Khattak and another Vs. Ms. Sofia Waqar Khattak, PSO to Chief Justice and others (2014 SCMR 122) and held that the High Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 has no authority to exercise *suo moto* jurisdiction. The relevant portion of the judgment (supra) is reproduced as under:

“8.....We have, therefore, no hesitation to hold that the High Court could not exercise *Suo Motu* jurisdiction under Article 199 of the Constitution of Pakistan. The more so when we have noticed that such jurisdiction has stridently been used even in the matters which are clearly and squarely outside the jurisdiction of a High Court.”

In a case having similar facts to the instant matter, appointment of a person was challenged who was appointed for a period of two years in 2015. During the pendency of the writ petition, period of appointment was expired and that person was granted further extension of two years. Learned Single Judge in Chamber, High Court of Balochistan set aside the said extension order vide judgment dated 08.11.2017 passed in Writ Petition No.721/2015 but the said judgment was set aside by the Hon'ble Supreme Court of Pakistan vide judgment cited as Jahanzaib Malik Vs. Balochistan Public Procurement Regulatory Authority through Chairman Board of Directors and others (2018 SCMR 414) and held that first appointment was under challenged whereas subsequent extension was not challenged and the High Court has no power to set aside fresh appointment. For ready reference, relevant portion of judgment (supra) is reproduced as under:

“9. In addition, we notice that the 2 years contract of the petitioner expired on 08.04.2015. In consequence of which the Constitution Petition as originally filed was rendered infructuous. The petitioner was granted a further extension of 2 years vide office order dated 29 August, 2017 with effect from 08.04.2017. The said office order was not challenged by respondent No.3 2017 either through amendment in the Constitutional Petition or by filing a fresh petition. By taking Suo Motu Notice of such extension, the High Court appears to have exceeded its jurisdiction for reasons which are not legally sustainable. In addition, through the office order dated 29th August, 2017, six other officials of Balochistan Public Procurement Regulatory Authority had been granted two years extension of service. Such employees were neither before the High Court nor were their appointments or reappointment orders under challenge. Yet without hearing the said persons or considering their cases, the High Court proceeded to set aside their extensions also, by setting aside office order dated 29.08.2017. This is an additional ground for our inability to uphold the judgment of the High Court.”

(emphasis supplied)

The Hon'ble Supreme Court of Pakistan while rendering judgment titled as Mian Irfan Bashir Vs. The Deputy Commissioner (D.C.), Lahore and others (PLD 2021 SC 571) held that the learned Single Judge in Chamber while deciding a matter regarding wearing of helmet, removal of signboards etc. was not pending before the High Court as such no direction in this regard could not be issued suo moto. For ready reference, relevant portion of judgment (supra) is reproduced as under:

“3. In the instant case, the direction against the motorcyclists (who do not wear helmets) and the petrol pump owners is a suo motu exercise of juridical power not available to the High Court under the Constitution. There was no such lis or dispute before the High Court. The grievance agitated before the High Court was regarding the signboards and advertisements put up by the traders on the Mall Road and this matter was not even remotely connected to the motorcyclists, helmets or the purchase of petrol by them.”

The Peshawar High Court, Peshawar took notice of the price of the poultry/dairy products and passed different directions in the said case. The said orders/directions were assailed and the Hon'ble Supreme Court of Pakistan while setting aside the

aforesaid orders/instructions in its judgment cited as Messrs Sadiq Poultry (Pvt.) Ltd. Vs. Government of Khyber Pakhtunkhwa through Chief Secretary and others (PLD 2023 SC 236) held that the High Court has no *suo moto* power and only Supreme Court of Pakistan under Article 189 of the Constitution of the Islamic Republic of Pakistan, 1973 has power to exercise such power. For ready reference, relevant portion of judgment (*supra*) is reproduced as under:

“6. It is settled law that the High Court does not have *suo motu* jurisdiction under Article 199 of the Constitution of this Islamic Republic of Pakistan (the "Constitution") as compared to this Court which has been conferred exclusive jurisdiction in the matter by the Constitution in terms of Article 184(3).....The learned High Court could not have transgressed its jurisdiction under Article 199 of the Constitution by passing an order which not only amounts to exercise of *suo motu* jurisdiction but also an encroachment on the jurisdiction executive.”

Further reliance is placed on cases titled as Abrar Hassan Vs. Government of Pakistan and another (PLD 1976 SC 315), Akhtar Abbas and others Vs. Nayyar Hussain (1982 SCMR 549), Mian Muhammad Nawaz Sharif and others Vs. Muhammad Habib Wahab Al-Khairi and others (2000 SCMR 1046), Raja Muhammad Nadeem Vs. The State and another (PLD 2020 SC 282), Taufiq Asif and others Vs. General (Retd.) Pervez Musharraf and others (PLD 2024 SC 610) and Abdullah Jumani and others Vs. Province of Sindh and others (2024 SCMR 1258).

From perusal of the aforesaid dicta laid down by the Hon'ble Supreme Court of Pakistan, it is clear in express terms that a High Court has no *suo moto* jurisdiction under Article 199 of Constitution of Islamic Republic of Pakistan, 1973 to encroach upon the jurisdiction of the executive.

7. The Federal Government, both caretaker and incumbent, exercised the powers conferred by Section 3 and Section 44 read

with Sections 4, 5, 33 and 34 of the Ordinance, 2000 and the Rules, 2020. The Caretaker Federal Government by invoking jurisdiction under Section 230 of the Elections Act, 2017 and in terms of Section 3(3) & 3(5) of the Ordinance, 2000 inserted Rule 7A in the Rules, 2020 and appointed Chairman, NADRA vide notification dated 02.10.2023. Subsequently, elected Federal Government in terms of Rule 17(1)(b) read with Rule 19(1) of the Rules of Business, 1973 endorsed the insertion of Rule 7(A) in the Rules 2020 and the appointment of Chairman, NADRA.

8. Even otherwise, the matter of appointment of a person against a certain post exclusively falls within the domain of the government/concerned authority and interfering in said executive domain amounts to committing judicial overreach which is unwarranted by law. For ready reference, relevant portion of Mian Irfan Bashir's case (supra) is reproduced as under:

“6. Judicial overreach is when the judiciary starts interfering with the proper functioning of the legislative or executive organs of the government. This is totally uncharacteristic of the role of the judiciary envisaged under the Constitution and is most undesirable in a constitutional democracy. Judicial overreach is transgressive as it transforms the judicial role of adjudication and interpretation of law into that of judicial legislation or judicial policy making, thus encroaching upon the other branches of the Government and disregarding the fine line of separation of powers, upon which is pillared the very construct of constitutional democracy.”

Another reliance in this regard is placed on a judgment cited as Chief Executive Officer, Multan Electric Power Company Ltd. Khanewal Road, Multan Vs. Muhammad Ilyas and others (2021 SCMR 775), the relevant portion whereof is reproduced as under:

“6. In the instant case, the judge instead of deciding the case on merits, passed the final order of appointment of respondent no.1 without adjudicating the issue in hand and then executed the order by directing the petitioner that the Appointment Letter be issued by the next date of hearing. By assuming the role of the Executive the judge disregarded his core function of

adjudication, in accordance with law. Ignoring the constitutional boundaries of separation of powers can easily equip a judge with a false sense of power and authority. This is a dangerous tendency and must be guarded against to ensure that the judicial role continues to remain within its constitutional limits.

7. When judiciary encroaches upon the domain of the Executive, as in this case, where the learned judge disregarded the eligibility criteria and the recruitment policy of the Executive Authority and assumed the function of the Executive, it is said to commit judicial overreach – which occurs when a court acts beyond its jurisdiction and interferes in areas which fall within the Executive and/or the Legislature’s mandate. Through such interference the court violates the doctrine of separation of powers by taking on the executive functions upon itself. The instant case is a textbook case of judicial overreach, where a judge directs an authority to issue an Appointment Letter disregarding the recruitment process, merit and the employment policy of the executive authority. Such judicial role imperils the separation of powers, jeopardizes the legitimacy of the judicial institution and undermines constitutional democracy. It is imperative that the courts do not derogate from their constitutionally mandated oversight function of judicial review. Certain values in the Constitution have been designated as foundational to our democracy which means that, as corner-stones of our democracy, they must be scrupulously observed. It is a sure recipe for a constitutional crisis if these values are not observed and their precepts are not carried out conscientiously.”

9. Admittedly, respondent No.1 by filing Writ Petition No.12091/2024 approached this Court for issuance of quo warranto, which literally means “by way of warrant”. The writ of quo warranto is issued determining the right of a person holding an office and directing him to disclose under what authority he is holding that office. The conditions which are essential for the issuance of writ of quo warranto are that the appointment under challenge must be to a public office and the said appointment has been made without the authority of law or in other words contrary to the relevant statutory provisions/rules. The Caretaker Government, while exercising the powers conferred upon it under Section 230 of the Elections Act, 2017, read with Section 44 of the Ordinance, 2000 made an amendment to the Rules, 2020 by

inserting Rule 7-A. Subsequently, respondent No.6 was appointed as Chairman NADRA in terms of Section 3(5) of the Ordinance, 2000, with immediate effect and until further orders, by the Caretaker Government while exercising its powers under Section 3(3) of the Ordinance, 2000, read with Rule 7-A of the Rules, 2020. The insertion of Rule 7-A in the Rules, 2020, and the appointment of Respondent No.6 were duly confirmed by the incumbent elected Federal Government through two separate notifications, both dated 28.03.2024, issued in terms of Rule 17(1)(b), read with Rule 19(1) of the Rules of Business, 1973. Both the Caretaker and incumbent elected Government, drawing strength from the aforementioned law, undertook all steps/actions, from the insertion of Rule 7-A in the Rules, 2020 to the issuance of the appointment notification of Respondent No.6 on 28.03.2024. Under the law *ibid*, the Federal Government, being the competent authority, had/has the power to make rules as well as to make appointment of Chairman NADRA. As such, the appointment of Chairman NADRA is not an appointment against the statutory provisions/rules. Thus, writ of quo warranto cannot be issued in such circumstances. Reliance is placed on a judgment cited as Muhammad Aslam Vs. Government of Khyber Pakhtunkhwa and others [2023 PLC (C.S.) 1561].

10. The Caretaker Federal Government while invoking jurisdiction under Section 230 of the Elections Act, 2017 through notification dated 13.09.2023 inserted Rule 7A in the Rules, 2020 and for a short-term appointed Chairman, NADRA vide notification dated 13.09.2023. The respondent No.1 through the writ petition challenged the appointment of Chairman NADRA. Subsequently, on establishment of incumbent elected Government, the Federal Government in terms of Rule 17(1)(b) read with Rule 19 (1) of the Rules of Business, 1973 confirmed the insertion of Rule 7(A) of Rules 2020 and appointment of

Chairman, NADRA. The respondent No.1 did not challenge the subsequent notifications both dated 28.03.2024 in Writ Petition [No.12091/2024] as such the writ petition of respondent No.1 had become infructuous. Whereas the learned Single Judge in Chamber while exercising *suo moto* power set aside Rule 7A of Rules, 2020 and held appointment of Chairman, NADRA as without lawful authority which exercise of power by the learned Single Judge in Chamber is a clear example of judicial overreach and deserves to be reversed.

11. Resultantly, this Intra Court Appeal is **allowed** and by setting aside the judgment dated 06.09.2024 passed by the learned Single Judge in Chamber, the Writ Petition No.12091/2024 filed by the respondent No.1 is **dismissed**.

(Ahmad Nadeem Arshad)
Judge

(Ch. Muhammad Iqbal)
Judge

Announced in open Court on 19.02.2025.

Approved for reporting.

Judge

Judge

Abdul Hafeez