

Maintainability of Writ Jurisdiction under Article 199 of the Constitution of Pakistan: A Critical Exposition

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Abstract

This work briefly discusses the constitutional framework of writs in Pakistan. It briefly discusses the different types of writs. It discusses the ambit and scope of maintainability of Article 199 of the Constitution of Pakistan. The main findings of this work are that there are four essential pre-requisites that must be fulfilled for a High Court to be able to exercise jurisdiction over a particular case. These four pre-requisites include: whether there is alternate remedy which is both speedy and well-suited to the grievance caused to the petitioner. Whether the petitioner can approach the Court under Article 199 of the Constitution in the first place. Whether the respondent is someone against who the Court can issue a writ against in the first place, such as a federal or provincial government authority or a body creation of a federal or provincial law, or a semi-public institution, where the state has a majority involvement and whether the rules of the concerned public institution have statutory force behind them. Lastly, whether the petition comes within the territorial jurisdiction of the Court. Although this rule does not apply to federal authorities as they function all over Pakistan, provided they cause any sort of grievance to the petitioner in the province he is living. In which case he may approach the concerned provincial High Court and in matters of judicial review of a statute he may choose at his own convenience to approach either the Islamabad High Court or a provincial High Court. The methodology used in this paper is doctrinal.

Keywords: Constitution, Constitutional Law, Constitutional Jurisprudence, Writs, Writ Jurisdiction, Maintainability, Article 199.

1. Introduction

This paper briefly discusses the origin of writs and the development of the Pakistani constitution framework surrounding the same; it discusses the types of writs and then proceeds to discuss the ambit and scope of maintainability of a writ petition under Article 199 of the Constitution; it discusses the essential pre-requisites of a writ's maintainability as per the jurisprudence of the Pakistani Superior Courts;

2. Brief Constitutional Framework

A writ is an order issued by a court requiring that something be done or giving authority to do a specified act (West, 2005, p. 429). They were developed as a means for the Norman King to interfere with the jurisdiction of the para-military feudal courts at the time of Medieval England and then were developed overtime as specific orders issued by a court of law (Hazard, 1962). Originally, under British India, there was no such constitutional provision that provided for the issuance of writs under the Governing Acts such as the Government of India Act, 1935, instead, a court's issuance of writs was vested onto them by means of ordinary legislation such as Section 491 of the then British Indian Code of Criminal Procedure, 1861 recognized the writ of *habeas corpus* for example (Crouch, 2018). Hence, prior to Indian and Pakistani independence respectively, an individual had no right to seek any redress under the Government of India Act

1935, although the Courts had recognized the power to issue writs under the common law, it was solely limited to the High Courts of Calcutta, Bombay and Madras respectively (Crouch, 2018). After independence, the powers of the High Courts to issue writs was incorporated within the amended Section 223A of the adapted Government of India Act, 1935 before being incorporated within Articles 170 and 22 of the successive 1956 Constitution and 98(2) of the 1962 Constitution respectively. Articles 170 and 22 of the 1956 Constitution provided for both the High Courts and Supreme Court the power to issue writs while Article 98(2) provided the same power to only the High Courts, thus the Supreme Court could not issue writs then.

The power to issue writs are now incorporated within Article 199(1) of the current 1973 Constitution, which is para-material with Article 98(2) of the 1962 Constitution with only a few minor differences. However, the Supreme Court has once again also been authorized to issue writs under Article 184(3) of the current Constitution, provided that the case at hand concerns public interest and the enforcement of a fundamental right.

3. Types of Writs

There are five types of writs incorporated within our Constitution, namely:

- i. *Habeas Corpus*: a court order that commands an individual or a government official who has restrained another to produce the prisoner at a designated time and place so that the court can determine the legality of custody and decide whether to order the prisoner's release (West, 2005, p. 169). This is incorporated within Article 199(1)(b)(i) of the Constitution.
- ii. *Quo-Warranto*: an order that tests the validity of a person's authority to hold a particular public office under law, provided that that the said person comes under the territorial jurisdiction of the particular High Court said writ was moved in the first place on the application of any person (*Ghulam Rasool v. The Returning Officer, N.A. 196, Malir Cantt, Karachi, PLD 1985 Karachi 315, p. 319.*) This is incorporated within Article 199(1)(b)(ii) of the Constitution.
- iii. *Prohibition*: this writ is issued to prohibit to forbid judicial or quasi-judicial authorities to act in excess of their jurisdiction, or in contravention of the laws of the land (*Dr. Sher Bahadur Khan v. Government of West Pakistan, PLD 1956 (W. P.) Peshawar 77, p. 88.*) This is incorporated within Article 199(1)(a)(i) of the Constitution.
- iv. *Certiorari*: a writ issuing out of a court directed to some inferior court or other tribunal or officer, generally exercising judicial functions, requiring the certification and return to the issuing court of the record of some proceeding then pending or terminated, to the end that the proceedings may be reviewed by the issuing court (Crum, 1951). This is incorporated within Article 199(1)(a)(ii) of the Constitution.
- v. *Mandamus*: a device for securing by judicial means the enforcement of public duties, it is a command issued from a superior court to an inferior court, requiring it to perform a public duty that has been imposed upon it (Howell, 1985). This is incorporated within Article 199(1)(c) of the Constitution.

4. Maintainability of Writ Petitions

The first question a Court of law shall always ask is whether they have jurisdiction to hear the particular case at hand, that is to say, whether they are authorized by law to hear a case and issue an order, decree or judgement on it. The same applies to writs. The High Court shall of course

ask whether it has jurisdiction to hear this case and issue a writ. The questions that shall be asked will be of the following nature:

- i. Is the petitioner an ‘aggrieved person’ or ‘person’ within the meaning of Article 199(1) of the Constitution?
- ii. Does the case fall within this Court’s territorial jurisdiction?
- iii. Is the concerned person, authority or court, tribunal ‘someone’ against whom this Court can issue a writ against or not?
- iv. Whether there is any alternate remedy available to the petitioner or not?

4.1. Aggrieved Person and Person

Article 199(1) of the current 1973 Constitution provides that either a ‘person’ or an ‘aggrieved person’ can apply for a writ. The former can apply for the writs of *habeas corpus* and *quo-warranto* while the latter can apply for the writs of *prohibition*, *certiorari* and *mandamus*. Hence, one has to apply in any form or manner to the High Court for the issuance of a writ, the High Court cannot exercise *suo-moto* jurisdiction like the Supreme Court (*Additional Registrar High Court of Sindh Bench at Sukkur v. Government of Sindh*, C. Ps. No. D – 1566 of 2020, at para 6). The first two writs it would seem is pro-bono or is open to anyone in the public to petition for it, while for the last three, a condition has been added for a person to be ‘aggrieved’ to petition for any of these writs (*Adeeb Jawadani v. Chief Administrator Auqaf, Lahore*, PLD 1987 Lahore 286, para 4; *Messrs Dreamworld Family Resort v. Registrar of Trade Unions*, 2010 PLC 293 [Karachi High Court], para 8). Hence, insofar as writs of *mandamus*, *certiorari* and *prohibition* are concerned, it is necessary that the right sought to be enforced should ordinarily be a personal or individual right of the individual petitioner, whereas the aforesaid rule has been relaxed or modified in case of writs of *habeas corpus* and *quo warranto* (*Dr. Farzana Bibi v. Ministry of Law, Justice and Human Rights*, PLD 2018 Islamabad 127, para 12; *Farman Shah v. Government of K.P.K*, PLD 2023 Peshawar 178, para 7; *Ch. Zahoor Elahi v. Director, Anti-Corruption*, PLD 1975 Lahore 532.) Or in simpler words, one needs *locus standi* for the issuance of the writs of *mandamus*, *certiorari* and *prohibition* whereas one does not need *locus standi* for the issuance of the writs of *habeas corpus* and *quo warranto*. Thus, unless one has an individual right being violated and he wishes to enforce said right when it comes to the writs of *mandamus*, *certiorari* and *prohibition*, only then will it be maintainable. When it comes to the writs of *quo warranto* and *habeas corpus*, then, maintainability does not depend upon whether a person is aggrieved or not or has any individual right that he wishes to enforce.

4.2. Authorities/Courts against whom a Writ can be issued

‘Person’ has also been further defined under sub-article 5 of Article 199 of the Constitution ‘as any body politic or corporate, any authority of or under the control of the Federal Government or of a Provincial Government’ (*Echo West International (Pvt.) Ltd., Lahore v. Government of Punjab*, 2009 CLD 937 [Supreme Court of Pakistan], para 12), and any Court or tribunal, other than the Supreme Court, a High Court or a Court or tribunal established under a law relating to the Armed Forces of Pakistan. Person in this context refers to those against whom a writ can be issued. The word ‘person’ has also been defined multiple times by the superior courts to include either a Government, a body creation of an Act of Parliament or a Provincial Assembly (*Irfanullah v. Federation of Pakistan*, 2023 PLC (C.S.) 866 [Peshawar High Court], para 7) Hence, one can issue a writ against either a government, a body that has been created by a legislative enactment, whether it was federal or provincial legislation, such as the State Bank of Pakistan (*Syed Abul A’ala Maududi v. The State Bank of Pakistan*, PLD 1969 Lahore 908; *Syed Akbar Ali Bokhari v. State Bank of Pakistan*, PLD 1977 Lahore 234, at para 4.) or any other such

state functionaries (*Sarwar Taj v. Government of Punjab*, 2023 CLC 2156 [Lahore], at para 6.) It should be noted however that ‘persons’ in this context do not include private institution (*Dr. Qaiser Rashid v. Federal Secretary, Ministry of Foreign Affairs*, PLD 2006 Lahore 789, para 6; *Excellent Security Limited v. Federation of Pakistan*, 2022 CLC 2133 [Sindh], para 5). However, the criteria for determining whether a limited company can be treated for the purpose of exercising writ jurisdiction is whether the functions entrusted to the organization or person concerned are indeed functions of the state involving some exercise of sovereign or public power; whether the control of the organization vests in a substantial manner in the hands of Government; and whether the bulk of the funds is provided by the State (*Salahuddin v. Frontier Sugar Mills and Distillery Ltd.*, PLD 1975 SC 244; *Independent Media Corporation (Pvt.) Ltd. v. Federation of Pakistan*, PLD 2022 Lahore 288, para 4) Thus, in such a case, the Court shall concern itself with the degree of involvement of the State in said private institution, in terms of its control, functions and funding, whether the State has a major hand in all three or not.

Hence, writs can be issued against the federal or provincial governments respectively and as well as any sort of authority that works under them. However, should these government authorities have rules that are not statutory, then no writ petition can be entertained against them (*Dilshad v. International Islamic University, Islamabad*, Intra Court Appeal No. 341 of 2021, para 13). In fact, such a constitutional petition would only be maintainable if the rules/regulations governing the terms and conditions of service of the employees of the organization in question, are statutory or where the act or proceedings against which the appellant voices his/her grievance are in violation of the statutory rules/regulations (*Dilshad v. International Islamic University, Islamabad*, Intra Court Appeal No. 341 of 2021, para 13).

This viewpoint was reiterated in the case of “*Dr. Shamaila Sajjad v. HEC*”, where the petitioner was an assistant professor who was voicing her concern against the procedural irregularities in constituting the Departmental Tenure Review Committee (“D.T.R.C.”), constituted for the selection of candidates for the post of associate professor. She was particularly concerned over the reconstitution of the Committee and contended that certain members were added to the Committee who have co-authored research papers with the other candidates and thus there was a clear conflict of interest involved and would thus cause her prejudice. The respondent instead contended that as the rules/statutes of the respondent had no statutory force, thus the instant petition was non-maintainable. That the respondent does not come within the meaning of ‘person’ that is a government authority or in this case, a federal government authority. The Court after contemplating on the statutes/rules of the respondent observed that the Federal government does not have any role in the making of the respondent’s statutes/rules/regulations, thus these rules are non-statutory and cannot be entertained in a constitutional petition under Article 199, the Court dismissed the petition. The Court further observed that

“It is well settled that a constitutional petition under Article 199 of the Constitution would be competent, if the Rules/Regulations governing the terms and conditions of the employees of the organization in question, are statutory or where the act or proceedings against which the petitioner voices his/her grievance are in violation of the statutory Rules/Regulations.” (*Dr. Shamaila Sajjad v. HEC*, 2020 PLC (C.S.) 796 [Islamabad High Court], para 10).

Hence, if the rules/regulations of a government authority are non-statutory, that is to say, the concerned government had no role in making them, then the same cannot be entertained by means of a writ petition.

4.3. Territorial Jurisdiction of the High Court

The question of territorial jurisdiction is not a really important question compared to the other two, although, there are lawyers who do bring their cases which comes out of the Court's territorial jurisdiction for any nefarious reason. The condition of territorial jurisdiction is provided within the descriptions of the writs provided by Article 199(1) of the Constitution. Hence, the High Court of Sindh cannot hear a case against a provincial authority of Punjab for example. In such a case, the appropriate Court of law to approach would be the Lahore High Court. The provincial High Courts thus have territorial jurisdiction within the territory of their own respective provinces.

4.3.1. Territorial Jurisdiction of Federal Authorities or Bodies Created by Federal Law

However, it should be noted this rule of provincial High Courts having provincial territories does not apply to federal authorities. Any federal authority or any 'body' made under a federal law which passes any order or undertakes any proceedings in relation to any person that is living or conducting business in any of the provinces, then the High Court of the concerned Province, in whose territory the order would affect that person, would be competent to exercise jurisdiction, no matter where the head office of said authority is situated, whether it be in the Capital or in any other city of a Province (*M/s Jet Green (Pvt.) Limited v. Federation of Pakistan*, Intra Court Appeal No.54648 of 2021, para 15). Hence, we can see that the most important prerequisite is whether the concerned federal authority passes an order or undertakes any sort of proceeding to any person who is living in said province, then the concerned person can file a writ petition against said order or proceeding to the concerned High Court of said province as it will be maintainable.

In the case of "*Asghar Hussain v. The Election Commission, Pakistan*", where the results of the provincial elections of then Province of East Pakistan was challenged in the Election Tribunal, which had accepted the election petition and allowed it. The same was challenged in the then High Court of East Pakistan, which had dismissed the same. The Appellant moved the Election Commission to disqualify the candidate but did not do so. Another writ was then filed to the East Pakistan High Court to direct the Commission to disqualify the candidates. The Commission took the stance that the High Court could not issue a writ in this regard as it did not perform any function in that province in connection with the affairs of the Central Government. The High Court dismissed the petition based on this premise. The High Court followed this premise largely on the reason that the Election Commission was not a local authority it could issue a writ against and secondly, that its head office was in Islamabad, thus it was outside the territorial jurisdiction of the High Court. This came onto appeal to the Supreme Court. The Supreme Court rejected this premise as the Election Commission was a 'person' or 'authority' that exercised functions in connection with the Center or that it exercised federal authority in more simpler words and thus the High Court had jurisdiction under Article 98(2)(a)(i) of the then 1962 Constitution to exercise jurisdiction on the Election Commission, notwithstanding the fact its main office is located in West Pakistan. (*Asghar Hussain v. The Election Commission, Pakistan*, PLD 1968 SC 387, p. 397). This judgement would be relied upon by the Supreme Court in a subsequent case as well, where the Court upheld the same view (*Messrs Al-Iblagh Limited, Lahore v. The Copyright Board, Karachi*, 1985 SCMR 758, p. 761). The Lahore High Court expanded upon this proposition in the case of "*LPG Association of Pakistan v. Federation of Pakistan*" and enunciated the following principles:

(A) The Federal Government or any body politic or a corporation or a statutory authority having exclusive residence or location at Islamabad with no office at any other place in, any of the provinces, shall still be deemed to function all over the country.

(B) If such Government, body or authority passes any order or initiates an action at Islamabad, but it affects the ‘aggrieved party’ at the place other than the Federal capital, such party shall have a cause of action to agitate about his grievance within the territorial jurisdiction of the High Court in which said order/action has affected him.

(C) This shall be moreso in the cases where a party is aggrieved or a legislative instrument (including any rules, etc.) on the ground of it being *ultra vires*, because the cause to sue against that law shall accrue to a person at the place where his rights have been affected. For example, if a law is challenged on the ground that it is confiscatory in nature, violative of the fundamental rights to property; profession, association etc. and any curb has been placed upon such a right by a law enforced at Islamabad, besides there, it can also be challenged within the jurisdiction of the High Court, where the right is likely to be affected.

In this context, illustrations can be given, that if some duty/tax has been imposed upon the withdrawal of the amounts by the account holders from their bank account and the aggrieved party is maintaining the account at Lahore, though the Act/law has been passed at Islamabad, yet his right’ being affected where he maintains the account (Lahore), he also can competently initiate a writ petition in Lahore besides Islamabad; this shall also be true for the violation of any right to profession, if being conducted by a person at Lahore, obviously in the situation, he shall have a right to seek the enforcement of his right in any of the two ‘High Courts.

(D) On account of the above, both the Islamabad and Lahore High Courts shall have the concurrent jurisdiction in certain matters and it shall not be legally sound or valid to hold that as the Federal Government etc. resides in Islamabad, and operates from there; the assailed order/action has also emanated from Islamabad; therefore, it is only the Capital High Court which shall possess the jurisdiction. The dominant purpose in such a situation shall be irrelevant, rather on account of the rule of choice, the plaintiff/petitioner shall have the right to choose the forum of his convenience (*LPG Association of Pakistan v. Federation of Pakistan*, 2009 CLD 1498, para 6).

These same principles were upheld by the Supreme Court in the case of “*The Federal Government v. Ms. Ayyan Ali*” (*The Federal Government v. Ms. Ayyan Ali*, 2017 SCMR 1179, para 4). Hence, the particular federal authority having or not having a head office in the Capital is irrelevant, what matters is if said federal authority causes any form of grievance to a person in a particular province, in which case, the person can file a writ in the concerned provincial High Court (*Pervez Musharraf v. Federation of Pakistan*, PLD 2020 Lahore 285; *A.M. Construction Company (Pvt.) Limited v. NHA*, 2017 CLC 178; *Messrs Sethi and Sethi sons v. Federation of Pakistan*, 2012 PTD 1869). or if the concerned petition is a is one that is challenging a particular legislative instrument’s validity or *vires*, then in such a case, the concerned petitioner can file a writ in either the provincial High Court or the Islamabad High Court as the case may be at his best ease and convenience. Thus, in the latter case, he can choose in terms of what is convenient to him.

4.4.Adequate Remedy

The condition of adequate remedy is provided by Article 199(1) of the Constitution. It provides that “*subject to the Constitution, a High Court may, if it is satisfied that no other adequate*

remedy is provided by law” and then the constitutional provision proceeds to describe the nature of the different writs, which can be issued on the application of an ‘aggrieved person’ or ‘person’ respectively as discussed hereinabove. However, the first condition is ‘if the High Court is satisfied that there is no alternate adequate remedy provided by law’. The writ jurisdiction can thus only be exercised if no other adequate remedy is provided by law (*Messrs Sprint Oil and Gas Services Pakistan FZC, Islamabad v. OGDCL, Islamabad*, 2024 SCMR 117, para 9). Hence, once the concerned petitioner applies to the High Court for the issuance of a writ, he must also provide that there is no other adequate remedy in any other law, if he fails to do so and the Court finds out that there is in fact an adequate available to the petitioner, the petition shall be dismissed as being non-maintainable. In such cases, the petitioner will have to first implement the doctrine of elections and exhaust all his other remedies before approaching the High Court. The Supreme Court recently held that the expression ‘adequate remedy’ signifies an effectual, accessible, advantageous and expeditious remedy which should also be *remedium juris* i.e. more convenient, beneficial and effective, that to effectively bar the jurisdiction of the High Court under Article 199 of the Constitution, the remedy available under the law must be able to accomplish the same purpose which is sought to be achieved through a writ petition (*Dr. Abdul Nabi v. Executive Officer, Cantonment Board, Quetta*, 2023 SCMR 1267, para 10). Hence, the alternate remedy must be equally unexpensive and expeditious (*Dr. Sher Afgan Khan Niazi v. Ali S. Habib*, 2011 SCMR 1813, para 8). The Supreme Court further laid out a test to determine the adequacy of the alternate remedy/relief for High Courts.

The High Court has to determine that:

- i. If the relief available through the alternative remedy in its nature or extent is not what is necessary to give the requisite relief, the alternative remedy is not an “other adequate remedy” within the meaning of Article 199.
- ii. If the relief available through the alternative remedy, in its nature and extent, is what is necessary to give the requisite relief, the ‘adequacy’ of the alternative remedy must further be judged, with reference to a comparison of the speed, expense or convenience of obtaining that relief through the alternative remedy, with the speed, expense or convenience of obtaining it under Article 199. But in making this comparison those factors must not be taken into account which would themselves alter if the remedy under Article 199 were used as a substitute for the other remedy (*Dr. Sher Afgan Khan Niazi v. Ali S. Habib*, 2011 SCMR 1813, para 9).

The Supreme Court further laid the following steps to be taken by the High Court in order for it to determine the criteria as laid down hereinabove:

- i. Formulate the grievance in the given case, as a generalized category.
- ii. Formulate the relief that is necessary to redress that category of grievance.
- iii. See if the law has prescribed any remedy that can redress that category of grievance in that way and to the required extent.
- iv. If such a remedy is prescribed that the law contemplates that resort must be had to that remedy.
- v. If it appears that the machinery established for the purposes of that remedy is not functioning properly, the correct step to take will be a step that is calculated to ensure, as far as lies in the power of the Court, that that machinery begins to function as it should. It would not be correct to take over the function of that

- machinery. If the function of another organ is taken over, that other organ will atrophy, and the organ that takes over, will break down under the strain.
- vi. If there is no other remedy that can redress that category of grievance in that way and to the required extent, or if there is such a remedy but conditions are attached to it which for a particular category of cases would neutralise or defeat it so as to deprive it of its substance, the Court should give the requisite relief under Article 199.
 - vii. If there is such other remedy, but there is something so special in the circumstances of a given case that the other remedy which is generally adequate, to the relief required for that category of grievance, is not adequate to the relief that is essential in the very special category to which that case belongs, the Court should give the required relief under Article 199 (*Dr. Sher Afgan Khan Niazi v. Ali S. Habib*, 2011 SCMR 1813, para 9).

The Court further held that if the procedure for obtaining the relief by some other proceedings is too cumbersome or the relief cannot be obtained without any delay and expense, or the delay would make the grant of the relief itself meaningless, this Court would not hesitate to issue a writ if the party applying for it is found entitled to it, simply because the party could have chosen another course to obtain the relief which is due.

Hence, the High Court must determine whether the adequate remedy is such that it shall provide a proper and well-suited relief and it shall provide it expeditiously to the grievance caused in comparison with a remedy under Article 199 of the Constitution. In case it does not fulfill the requisite criteria, then the High Court can issue a writ in the instant case.

Interestingly enough, it should be noted that the condition of adequate remedy did not exist under Article 170 of the then 1956 Constitution of Pakistan. After being abrogated, it was added under Article 98(2) of the successive 1962 Constitution. The same was also added under the current Article 199(1) of the current 1973 Constitution as it is para-material with Article 98(2) of the 1962 Constitution with a few differences in the former. In fact, Article 226 of the 1950 Indian Constitution also does not provide for the added condition of there being no alternate or any other adequate remedy before approaching the High Court for remedy under writ jurisdiction.

5. Conclusion

From the discussion hereinabove, we can conclude that a writ is an order of a Court either requiring that something be done or that authority perform a specified act. They came as a means of the Norman King to 'interfere' with the authority of the feudal courts and overtime developed to the point that the common law courts started issuing them. The High Court can issue five types of writs namely: *prohibition*, *certiorari*, *mandamus*, *habeas corpus* and *quo warranto*. The High Court before it can issue a writ will be concerned with the matter of the writ's maintainability, that is to say, whether it has the jurisdiction to hear the case and pronounce a judgement, decree or order in regards to it. When it comes to maintainability of writ petitions, there are four essential conditions that must be met. The first condition is if there is any other alternate remedy available to the petitioner, in which the Court shall determine whether the remedy is suited to the grievance caused to the petitioner, whether it will be expedient in comparison to Article 199 of the Constitution. In case, it does not meet this requisite criterion, the Court shall then issue the writ sought. The second is whether the petitioner is a 'person' or an 'aggrieved person' within the meaning of Article 199. That is to say, can the petitioner approach this High Court within Article 199 in the first place? When it comes to the writs of *prohibition*, *certiorari* and *mandamus*, the petitioner will have to establish *locus standi* before the Court

while for the writs of *habeas corpus* and *quo warranto*, there is no need to establish any *locus standi* as anyone from the public can approach the High Court under Article 199 for the issuance of this writ. The third is whether the Court has the territorial jurisdiction to hear this case, that is to say, whether the petition comes within the provincial territory of the concerned provincial High Court. This does not apply to the federal authorities however, if the federal authority causes any grievance to the petitioner in the province he is living, then he may approach the concerned provincial High Court under Article 199. Furthermore, should the grievance caused be in the nature of testing a statute's *vires* or validity, then the petitioner can approach both the concerned provincial High Court and the Islamabad High Court at his best ease and convenience. Lastly, the Court will determine whether the respondent is a 'person' against whom the Court can issue a writ against in the first place. Under Article 199(5) of the Constitution, a 'person' refers to any federal or provincial government authority and any body that is a creation of a federal or provincial law. It does not include private institutions, however, should the private institution be one in which the state has a major involvement in terms of control, funding and functions, then the High Court can issue a writ against it as it is a semi-public institution in this case. Although, should the public institution be one in which its rules/regulations are non-statutory or have no statutory force, then the High Court cannot entertain writ jurisdiction in such a case.

References:

- A.M. Construction Company (Pvt.) Limited v. NHA*, 2017 CLC 178.
- Additional Registrar High Court of Sindh Bench at Sukkur v. Government of Sindh*, C. Ps. No. D – 1566 of 2020, 897 of 2013 & 2116 of 2018, at para 6.
<<https://caselaw.shc.gov.pk/caselaw/view-file/MTYyMzMxY2Ztcy1kYzgZ>>
- Asghar Hussain v. The Election Commission, Pakistan*, PLD 1968 SC 387.
- Ch. Zahoor Elahi v. Director, Anti- Corruption*, PLD 1975 Lahore 532.
- Crouch, Melissa, (2018), The Prerogative Writs as Constitutional Transfer, *Oxford Journal of Legal Studies*, Vol. 34, No. 4, pp. 652-679.
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4399668>
- Crum, Charles Libert,(1951),The Writ of Certiorari in North Dakota, *North Dakota Law Review*, Vol. 27, No. 3, pp. 217-299. <<https://core.ac.uk/download/pdf/322512388.pdf>>
- Dilshad v. International Islamic University, Islamabad*, Intra Court Appeal No. 341 of 2021, <https://mis.ihc.gov.pk/attachments/judgements/133423/2/ICA_No._341_of_2021,_DIL,_DOB_change_case_IIUI_637643771335750268.pdf>
- Dr. Abdul Nabi v. Executive Officer, Cantonment Board, Quetta*, 2023 SCMR 1267.
- Dr. Farzana Bibi v. Ministry of Law, Justice and Human Rights*, PLD 2018 Islamabad 127.
- Dr. Qaiser Rashid v. Federal Secretary, Ministry of Foreign Affairs*, PLD 2006 Lahore 789.
- Dr. Shamaila Sajjad v. HEC*, 2020 PLC (C.S.) 796 [Islamabad High Court].
- Dr. Sher Afgan Khan Niazi v. Ali S. Habib*, 2011 SCMR 1813.
- Dr. Sher Bahadur Khan v. Government of West Pakistan*, PLD 1956 (W. P.) Peshawar 77.
- Echo West International (Pvt.) Ltd., Lahore v. Government of Punjab*, 2009 CLD 937 [Supreme Court of Pakistan].
- Excellent Security Limited v. Federation of Pakistan*, 2022 CLC 2133 [Sindh].
- Farman Shah v. Government of K.P.K*, PLD 2023 Peshawar 178.
- Ghulam Rasool v. The Returning Officer, N.A. 196, Malir Cantt, Karachi*, PLD 1985 Karachi 315.
- Hazard, Jr.,Geoffrey C, (1962) The Early Evolution of the Common Law Writs: A Sketch, *American Journal of Legal History*, Vol. 6, No. 2, pp. 114-122.

- <https://repository.uclawsf.edu/cgi/viewcontent.cgi?article=1950&context=faculty_scholarship>
- Howell, Robert H., (1985), “An Historical Account of the Rise and Fall of Mandamus”, *V.U.W.L.R.*, No. 15, pp. 127-146.
<<https://www6.austlii.edu.au/nz/journals/VUWLawRw/1985/12.pdf>>
- Independent Media Corporation (Pvt.) Ltd. v. Federation of Pakistan*, PLD 2022 Lahore 288.
- Irfanullah v. Federation of Pakistan*, 2023 PLC (C.S.) 866 [Peshawar High Court].
- LPG Association of Pakistan v. Federation of Pakistan*, 2009 CLD 1498.
- M/s Jet Green (Pvt.) Limited v. Federation of Pakistan*, Intra Court Appeal No.54648 of 2021, <<https://sys.lhc.gov.pk/appjudgments/2021LHC4654.pdf>>
- Messrs Al-Iblagh Limited, Lahore v. The Copyright Board, Karachi*, 1985 SCMR 758.
- Messrs Dreamworld Family Resort v. Registrar of Trade Unions*, 2010 PLC 293 [Karachi High Court].
- Messrs Sethi and Sethi sons v. Federation of Pakistan*, 2012 PTD 1869.
- Messrs Sprint Oil and Gas Services Pakistan FZC, Islamabad v. OGDCL, Islamabad*, 2024 SCMR 117, para 9.
- Pervez Musharraf v. Federation of Pakistan*, PLD 2020 Lahore 285.
- Salahuddin v. Frontier Sugar Mills and Distillery Ltd.*, PLD 1975 SC 244.
- Sarwar Taj v. Government of Punjab*, 2023 CLC 2156 [Lahore].
- Syed Abul A’ala Maududi v. The State Bank of Pakistan*, PLD 1969 Lahore 908.
- Syed Akbar Ali Bokhari v. State Bank of Pakistan*, PLD 1977 Lahore 234.
- The Federal Government v. Ms. Ayyan Ali*, 2017 SCMR 1179.
- West’s Encyclopedia of American Law, (Thomson Gale, 2nd ed., Vol. 10., 2005).
- West’s Encyclopedia of American Law, (Thomson Gale, 2nd ed., Vol. 5., 2005).