

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Yahya Afridi, CJ
Mr. Justice Naeem Akhtar Afghan
Mr. Justice Miangul Hassan Aurangzeb

**Civil Miscellaneous Application No. 1477 OF 2023 in Civil
Petition No. 5250 of 2023**

*(Permission to file and argue the case - Against the order dated 01.12.2022
of the High Court of Sindh, Circuit Court, Larkana passed in Const. P. No. S-
56/2020)*

Pakistan Bait ul Mal through Managing Director, Islamabad
...Applicant/Petitioner(s)

Versus

Raj Ram and others

...Respondent(s)

For the Applicant/
Petitioner(s):

Hafiz Arfat Ahmed Ch., ASC
Syed Rifaqat Hussain Shah, AOR
Syed Mansoor H. Gardezi, Deputy Legal
Advisor

For the Respondent(s):

Not represented

Date of Hearing:

24.08.2026

ORDER

Yahya Afridi, CJ.-

Civil Miscellaneous Application No. 1477 OF 2023

Through this application, the applicant seeks permission to
file the petition. For the reasons stated in the application, the same
is allowed and the office is directed to number the petition.

Civil Petition No. 5250 of 2023

2. The petitioner, Pakistan Bait-ul-Mal (“**Bait-ul-Mal**”) has
assailed the order dated 01.12.2022 passed by the learned High
Court of Sindh (the “**High Court**”), whereby, while holding that the
paternal grandfather of two minor Hindu children was not

personally liable for their maintenance under the applicable family law, the learned High Court directed Bait-ul-Mal to register the minors as regular beneficiaries and pay each of them maintenance at the rate of Rs. 10,000 per month, with an annual increase of 10%, until their marriage.

Factual Background:

3. To place the controversy in its proper perspective, it is necessary to briefly advert to the facts giving rise to the impugned order. At the very outset, it merits particular notice that the case before us has its origin in a claim for maintenance made in circumstances of considerable hardship.

4. Respondent No. 3, Mst. Shrimati Reeta, a lady of Hindu faith, was married to one Ravi Kumar in 2012, and two minor daughters, Jasika and Sanika, were born of the marriage. Ravi Kumar died by suicide on 20.05.2017. Following his death, with no independent source of income to maintain herself and her daughters, Shrimati Reeta instituted proceedings before the learned Family Court, Jacobabad, seeking, *inter alia*, maintenance for the minors from respondent no. 1, i.e. their paternal grandfather, Ram Raj. Ram Raj's own circumstances were scarcely better. Aged and infirm, he too lacked a source of income and a residence of his own, and was living in a *dharamshala* (charitable shelter). The claim for maintenance was thus brought against a person who was himself living in destitute conditions.

5. Nevertheless, the learned Family Court decreed the claim for maintenance and directed Ram Raj to pay Rs. 3,000/- per month to each minor, with an annual increase of 10%. The decree was

maintained in appeal, whereafter Ram Raj invoked the constitutional jurisdiction of the learned High Court. His challenge rested principally on two grounds: first, that the Family Court lacked jurisdiction to entertain a claim for maintenance concerning Hindu parties, and second, that no personal obligation to maintain his grandchildren could be imposed upon him under the applicable Hindu law.

Impugned Order:

6. It was against this rather unfortunate backdrop that the learned High Court proceeded to examine the two objections raised by Ram Raj. The first objection, concerning the jurisdiction of the Family Court, was repelled as the learned High Court held that matters relating to marriage and family affairs of non-Muslims, including Hindus, are not excluded from the ambit of Section 5 of the West Pakistan Family Courts Act, 1964. The second objection, however, found favour with the learned High Court. Upon examining Sections 20 and 21 of the Hindu Adoptions and Maintenance Act, 1956, as well as the applicable principles of Hindu law, it concluded that although grandchildren may fall within the category of “dependants” in the circumstances contemplated by law, a grandfather bears no personal obligation to maintain his grandchildren. The learned High Court, therefore, held that Ram Raj was not liable for the maintenance of the minor children.

7. These findings, however, presented the learned High Court with a predicament of a different kind. It had found that the grandfather bore no legal obligation to maintain the minors, while the record disclosed that their mother lacked the means to provide

for them herself. The result was that the two minor children remained in need of support, with neither of the persons before the Court in a position to provide it.

8. It was at this juncture that the learned High Court turned beyond the immediate parties and towards the welfare mechanisms of the State. Taking note of Articles 35, 37, and 38 of the Constitution, it observed that where the immediate family itself lacked the means to provide for the minors, institutions of the Federation and the Province established for the assistance of the poor and needy, including Bait-ul-Mal, the Social Welfare Department and the Zakat and Ushr Department, must be turned to. The learned High Court accordingly directed Bait-ul-Mal to register Jasika and Sanika as regular beneficiaries and to pay each minor Rs.10,000/- per month, with an annual increase of 10%, until marriage.

9. Bait-ul-Mal now challenges the said direction before this Court. Notably, it does not take exception to the circumstances of hardship noticed by the learned High Court, nor does it dispute that the two minors are deserving of assistance. Its grievance is directed, rather, to the manner in which such assistance was ordered. It maintains that, being a statutory body constituted under the Pakistan Bait-ul-Mal Act, 1991 (the “**Act**”), the assistance it provides is necessarily governed by the Act, the policies framed thereunder, prescribed eligibility criteria and financial limits, and the availability of funds. A direction requiring Bait-ul-Mal to register particular persons as beneficiaries and to pay a judicially determined amount

for a specified period, it submits, bypasses the framework within which it is required by law to operate.

Statutory Framework of Pakistan Bait-ul-Mal:

10. To properly appreciate the present controversy it is essential to understand the nature of Bait-ul-Mal and the particular statutory framework within which it extends assistance to persons in need. To assist the Court in this regard, Bait-ul-Mal has submitted a report setting out the nature and scope of the assistance presently administered by it. We have considered the said report, alongside the Act and various relevant policies, which together provide the following composite account of the statutory framework of Bait-ul-Mal.

11. Bait-ul-Mal is an autonomous body established under the Act, proceeding from the recognition that the State bears a responsibility towards citizens who are unable, permanently or temporarily, to earn their livelihood on account of sickness, unemployment or circumstances beyond their control. The preamble of the Act thus records the object of establishing Bait-ul-Mal as *“providing assistance to destitute and needy widows, orphans, invalid, infirm and such other persons, and thereby saving them from hardship and suffering to enable them to lead an honorable life in the society”*.

12. In statutory terms, Bait-ul-Mal is essentially a fund. Section 3 of the Act provides for the establishment of *“a fund to be known as Bait-ul-Mal”*, financed from sources specified therein, including grants from the Federal and Provincial Governments, local authorities, national organisations, etc. The money comprising the fund is then applied towards the welfare purposes enumerated in

Section 4 of the Act, which include, *inter alia*, financial assistance to the destitute and needy widows, orphans, invalid, infirm, and other needy persons; their rehabilitation and education; residential accommodation and medical treatment; vocational and self-employment assistance; and such other purposes as may be approved by the Board having regard to the aims and objects of Bait-ul-Mal.

13. Under Section 5A of the Act, the administration of Bait-ul-Mal is entrusted to the Bait-ul-Mal Board (the “**Board**”), which is responsible for, *inter alia*, formulating policy, planning, and approving the annual programme of work and budget, and overseeing the implementation of approved plans and programmes. The Board is also empowered, with the approval of the Federal Government, to make regulations for carrying out the purposes of the Act under Section 24 of the Act.

14. The above-described framework has, in practice, translated into a fully developed and autonomous welfare ecosystem. The report submitted by Bait-ul-Mal for the assistance of this Court shows that, notwithstanding its statutory constitution as a fund, Bait-ul-Mal operates through an extensive administrative structure and administers a range of welfare programmes directed towards different forms of need. Of the various welfare initiatives administered by Bait-ul-Mal, three (iii) are of particular relevance to the present case on account of their application to children:

i. Individual Financial Assistance (“IFA”):

Under the IFA programme, Bait-ul-Mal provides financial assistance to poor and deserving persons according to the

nature of their need. The programme encompasses assistance for medical treatment, education, rehabilitation and general financial assistance¹, and, as stated in the report submitted before us by the petitioner, eligible persons may receive one-time financial assistance of up to Rs. 100,000. While the eligibility criteria are broad enough to encompass persons facing a range of financial and personal hardships, the grant of assistance follows a prescribed process and is subject to certain verification, assessment, and approvals².

ii. Assistance through Schools for Rehabilitation of Child Labour (“SRCL”):

The SRCL programme by Bait-ul-Mal functions with the object of socio-economic rehabilitation of working children through formal and non-formal education. Children who fit the requisite eligibility and selection criteria may be enrolled in these schools³. In addition thereto, the parents are provided a certain subsistence allowance per child⁴, in order to alleviate financial hardship.

iii. Pakistan Sweet Homes:

Bait-ul-Mal also operates Pakistan Sweet Homes for the welfare of orphan children. Orphan children up to the age of five years may be enrolled in the nearest Pakistan Sweet Home⁵.

15. The purpose of setting out the scope of the aforementioned forms of assistance by Bait-ul-Mal in some detail is to substantiate that each programme is governed by its own parameters. The corresponding policy for each programme prescribes the persons

¹ For particulars, see Section 2, *Individual Financial Assistance Policy*.

² See Sections 5, 6.4, and 8, *ibid*.

³ For particulars, see Section 3, *Pakistan Bait-ul-Mal Schools for Rehabilitation of Child Labour Policy, 2021*

⁴ See Section 9, *ibid*.

⁵ See *Pakistan Bait-ul-Mal Sweet Home Policy, 2022*.

eligible to receive assistance, the nature of the assistance that may be extended, and where applicable, its monetary ceiling. In addition, access to each of these programmes follows an established administrative process. As explained in the report submitted by the petitioner, a person seeking assistance may approach the District, Divisional or Provincial Office of Bait-ul-Mal, or its Head Office in Islamabad, where an application is submitted and processed under the policy applicable to the assistance sought. The circumstances of each applicant are then duly assessed against the requisite eligibility criteria and other relevant checks for the programme before assistance is sanctioned. In short, the availability, extent, and eventual grant of assistance by Bait-ul-Mal remains subject to applicable policies and administrative processes.

16. There is, of course, also a financial dimension to the provision of such assistance. As explained in the report submitted by the petitioner, Section 19 of the Act requires the Board, in January of each year, to submit to the Federal Government for approval a statement of the estimated receipts and expenditure for the ensuing financial year. The assistance administered by Bait-ul-Mal consequently operates within an approved budget and remains dependent upon the availability of funds. The resources available to Bait-ul-Mal at any given time, therefore, also necessarily bear upon the nature and extent of assistance that it is able to provide.

Present Challenge:

17. Keeping the above statutory framework in view, the controversy before us lies within a fairly narrow compass: whether,

in the circumstances before it, the learned High Court was justified in turning to Bait-ul-Mal for the support of the two minor children.

18. In answering the said question, it is pertinent to first turn to the very purpose for which Bait-ul-Mal exists. As already noted, the Act proceeds from an express recognition of the responsibility of the State towards those who are unable to provide for themselves on account of circumstances beyond their control. Bait-ul-Mal is, then, an institutional means through which that responsibility is discharged. The resources placed at its disposal, including grants received from the Federal Government, are thus entrusted to it for a defined public purpose: to reach persons who, without such assistance, may have no adequate means of meeting their basic needs.

19. Given the express statutory purpose and intent underlying the Act, in our view, there is nothing inherently objectionable in a Court turning to Bait-ul-Mal where the circumstances before it disclose a need falling within the very sphere for which Bait-ul-Mal has been established. It is not infrequently that courts are faced with cases where resolution of the legal question at hand does not necessarily resolve the subsurface predicament of the parties. In fully discharging its judicial function, a Court may look beyond the immediate legal question and seek to address that predicament. Where another institution of the State exists precisely for that purpose, the Court may very well seek its assistance.

20. The present case demonstrates precisely why such a recourse may sometimes become necessary. At the heart of these proceedings are two minor children who lost their father at a young age and were

left dependent upon a family with little means of its own. Their mother is a widow without an independent source of income and their paternal grandfather, from whom maintenance was sought, is himself aged and infirm, living in destitute conditions. Thus, when the learned High Court concluded that the law imposed no personal obligation upon the grandfather to maintain the minors, it found itself at the very predicament spoken of above: while he could not lawfully be burdened with their maintenance, there remained no other person upon whom that responsibility could be placed.

21. To these circumstances must be added the fact that the two children in question belong to a religious minority. Minorities in Pakistan occupy a particularly vulnerable position, with social and economic hardships often bearing upon them with greater force. While poverty, loss of familial support and other forms of hardship are difficult to withstand in themselves, their impact may be considerably more acute for those who already stand outside the social majority. Minority status, therefore, is not merely another fact to be added to a catalogue of vulnerabilities; it, in fact, shapes the manner in which every other vulnerability is experienced. Institutions of the State must remain mindful of this reality. For Jasika and Sanika, therefore, their minority status formed a crucial part of the wider context in which their need for support fell to be considered.

22. The circumstances described above also find recognition in the Principles of Policy contained in the Constitution. Article 35 speaks to the protection of the family, the mother and the child; Article 36 to the safeguarding of the legitimate rights and interests

of minorities; and Article 38 to the social and economic well-being of the people, including the provision of basic necessities to those unable to earn their livelihood. It was against this broader constitutional and social context that the learned High Court, having found that the grandfather could not be held liable for their maintenance, turned to Bait-ul-Mal for the assistance of the two minor children. The concern shown by the learned High Court for the welfare of the minors is both understandable and deserving of appreciation.

23. We are equally appreciative of the position taken by the learned counsel for Bait-ul-Mal before us. During the course of proceedings, learned counsel stated that, having regard to the circumstances of the minor children, Bait-ul-Mal was willing to extend assistance to them and would take the necessary steps in that regard. The immediate concern which prompted the direction of the learned High Court, therefore, no longer places the parties at odds. Both the Court below and Bait-ul-Mal itself recognise that these children are deserving of the support of the State.

24. That, however, does not entirely dispose of the matter before us. Learned counsel for Bait-ul-Mal stated that its remaining concern relates to the manner in which the direction of the learned High Court may operate as a precedent in future cases. Learned counsel for the petitioner accordingly sought clarification as to the course to be adopted where a Court considers a person deserving of assistance from Bait-ul-Mal, bearing in mind that the nature and extent of such assistance are ordinarily determined within the statutory and administrative framework governing Bait-ul-Mal.

25. The concern is not without substance. As the preceding discussion demonstrates, Bait-ul-Mal administers different forms of assistance, each governed by its own purpose, eligibility criteria, procedure and, where applicable, financial limits. Applications undergo assessment and verification, assistance is sanctioned by designated authorities, and the extent to which it may be provided is necessarily informed by the resources and budget available to Bait-ul-Mal. These are the means through which limited public welfare resources are administered amongst those seeking assistance. Thus, while there is no objection to a Court identifying a person who appears deserving of assistance and bringing such a case to the attention of Bait-ul-Mal, the particular form, quantum and duration of that assistance must ordinarily remain for Bait-ul-Mal to determine. A direction prescribing a fixed amount, an annual increase or the period for which assistance must continue would otherwise pre-empt the very assessment which the statutory and policy framework entrusts to Bait-ul-Mal.

26. Accordingly, for future cases, where circumstances disclosed before a Court appear to warrant recourse to Bait-ul-Mal, the appropriate course would be to refer the case of the person concerned to Bait-ul-Mal for consideration. Bait-ul-Mal may thereafter facilitate the making of the necessary application, assess the circumstances of the applicant in accordance with the applicable policy and eligibility criteria, and determine the form and extent of assistance appropriate to the particular case. This course allows a Court to bring a deserving case within the reach of the welfare institution established to respond to it, without displacing the

framework through which that institution is required to administer its assistance.

27. In view of the foregoing, we see no reason to interfere with the impugned order insofar as it concerns the present case, particularly in view of the willingness expressed by Bait-ul-Mal before us to extend assistance to the two minors. The petition is, accordingly, dismissed. For future cases, however, recourse to Bait-ul-Mal shall be guided by the observations made hereinabove, leaving the nature and extent of assistance to be determined by Bait-ul-Mal in accordance with its applicable statutory and policy framework.

Chief Justice

Judge

Judge

Islamabad, the
24th of August, 2026
Approved for reporting.
Waqas Naseer