

**IN THE LAHORE HIGH COURT, LAHORE**

**Writ Petition No. 3967 /2014**

Insaf Society through Ms. Shumaila Malik its President, 42 Jinah Block, Awan town , Lahore

Petitioner

**VERSUS**

1. Government of Pakistan through Ministry of Law and Parliamentary affairs and Justice, Islamabad
2. Govt. of Punjab through Ministry of Law and Parliamentary affairs
3. Secretary, Ministry of Local Government, Civil Secretariat, Lahore
4. Administrator, TMA Office, Gulberg, Lahore
5. Secretary I union Council # 99, Gulberg Lahore III, Lahore

**RESPONDENTS**

**WRIT**

**ARTICLE**

**199**

**UNDER**

**OF THE**

*Respectfully Sheweth:-*

1. That the Petitioner Society is created for charitable purpose; providing free services to the down trodden people and other welfare works. The petitioner is registered with Government of Punjab and Ms. Shumaila Malik is its President who is competent to file the present petition on behalf of the society in the best interest of the public. Copy of registration is annexed as Annexure "A"
2. That at the very outset, it is submitted that the present petition is in the shape of pro bono public as well as on the basis of rights of the petitioner as a society registered and existing under the laws of Islamic Republic of Pakistan as well as rights of its members including Ms. Shumaila Malik through whom the present petition is being filed.
3. That the petitioner wants to bring a very important and sensitive matter of Public interest before the Hon'able court relating to the present practice and or procedure

obtaining the final decision of dissolution of marriage from family court which is of course a violation of teachings of Islam that woman during Iddat period cannot see any stranger man (NAA\_Mehrumm) but they are being forced by union council employees to violate teaching of Islam.

6. That according to Punjab Local Government Act 2013, Chapter IV Rule 13 “ A union Council shall consist of directly elected chairman and vice chairman as joint candidate, six general members and the following members on the reserved seats on the basis of adult franchise:
  - a. two women members;
  - b. one peasant member in a rural union council or one worker member in an urban Union Council;
  - c. one Youth member; and
  - d. One non - Muslim member where there are at least two hundred non-Muslim voters registered in the Union Council

13.2 The entire Union Council shall be the

election of the chairman, the vice chairman, the directly elected general members and the members on the reserved seats of the union council.

7. That according to Rule 72 (c) page 33 of The Punjab Local Government Act 2013 “ A union Council shall nominate members of the Panchayat or Musalihat Anjuman and monitor the performance of the Panchayat or Musalihat Anjuman;
8. That according to Rule 72 (m) page 34 of The Punjab Local Government Act 2013 “the function of a union council is “ arrange for registration of births, deaths, marriages, and divorces in the Union council to such persons and institutions as may be prescribed” ;
9. That according to Rule 96 (3)- chapter X!! of The Punjab Local Government Act 2013 “A Panchayat or Musalihat Anjuman shall consist of a panel of nine members, including at least two women, to be

residents of he Local Government shall not be appointed as members of the Punchayat or Musalihat Anjuman.

10. That according to Rule 96 ( 7) chapter XII of The Punjab Local Government Act 2013 , “ Any person may refer a civil or criminal dispute to the Punchayat or Musalihat Anjuman where the dispute has arisen within the territorial jurisdiction of the Punchayat or Musalihat Anjuman or where parties to the dispute are residing in such area or where the parties to the dispute have agreed to submit themselves to the jurisdiction of the Punchayat or Musalihat Anjuman.
11. That according to Rule 96 (11) Chapter XII of The Punjab Local Government Act 2013”Every settlement of a dispute by Punchayat or Musalihat Anjuman in a case pending before a court shall be subject to the approval of such court”.
12. That according to Rule 97 (1) A court may

territorial jurisdiction for amicable settlement of the dispute. 97(2) The court making a reference to the Punchayat or Musalihat Anjuman under sub section (1) may lay down the procedure for summoning the parties to the dispute, the term of reference, the period during which settlement is to be made, the manner in which report of the settlement is to be submitted and such other matters as it may deem appropriate for resolution of the dispute.

97(3) Where on a reference made by the court under subsection (1) the dispute is settled between the parties, the court may make such settlement as rule of court.

97(4) The Punchayat or Musalhit Anjuman shall inform the court if the dispute is not settled within the time fixed by the court or may ask for extension in time for settlement of the dispute.

13. That one similar case of Ms. Shumaila Malik who is also a petitioner; obtained final decision of dissolution of her marriage with

Irfan Ullah Asim from family court of justice of Mohammad Sher Abbas Awan on November 08, 2013 after going through the full required procedure of three notices and advertisement in the newspaper and got ex-party decision although she had right of divorce in her marriage contract (Nikah nama) - Annex 1 attached

14. That she submitted her petition in the court of Muhamamad Sher Abbas Awan on September 03, 2013. Annex 1 attached
15. That she visited union council 99 office couple of time between December 03, 2013 to December 08, 2013 to fulfill the requirement of registration of her divorce decree in jurisdictional Union Council office but the secretary 1 Mr. Mohammad Sheraz Sandhu was not available all the times consequently she called him on his cell phone but he harassed her and ordered her to come in person thereupon she mentioned that she is in Iddat for the period of three months and unable to face any Na-Mahram

to come in person declaring that she cannot be considered divorced unless I will give her final orders, therefore she has to appear before his court in union council office.

16. That she sent her documents by registered letter on December 09, 2013 to Mr. Sheraz sandhu and called him on his cell phone to confirm but he showed his inability to accept the court orders and advised Ms. Shumaila Malik that your divorce is not finalized yet and He is unable to accept the decree of the court. Further, he has to do the procedure of giving notices and an advertisement in the newspaper himself; thereafter your divorce will take effect. Anex 2 attached
17. That the petitioner went to TMA office situated at 31 C -II, Gulberg 3 , Lahore and saw Mr. Saqlain TMA but he also showed his inability to help in this regard. Anex 3,4 and 5 ( time line of her efforts to convince in connection of her complaint and reminders to Secretary 1 by register letters attached.
18. That administrator issued orders to start

of family court of dissolution of marriage decree.

19. That Union Council staff issued notice to both parties to appear personally before the court of chairman union council. Anex 6 attached inspire of final decree by family court for the dissolution of marriage.
20. That Union Council does not have delegation of authority to repeat the procedure of divorce under the Local Government Act unless they are directed by any family court of justice.
21. That currently there is no elected members of union councils that may form Punchayat and or Musahlat Anjuman and court of chairman.
22. That employees of union councils cannot function as Punchayat and or Mushalat Anjuman at the time due to non-existence of union council elected members.
23. That failure of complying court orders by union council TMA and union council staff falls under offense committing contempt of

24. That Union councils are only delegated powers to register the marriage, divorce and births record maintaining office and not to hold a trial of divorce ( Khula )in their office for dissolution of marriage under Khula the Islamic right of woman in shire.

It is therefore respectfully prayed that act of union councils may kindly be declared illegal, unlawful, unconstitutional, act of corruption and harassment, without lawful authority and an offense of contempt of court for not entertaining final decree by Family Court Mohammad Sher Abbas Awan of dissolution of marriage by repeating the procedure as new trial before the court of non-existed chairman.

It is further respectfully prayed that respondent #3 may be directed to direct administrators to consider the date of dissolution of marriage the date of decree by Family court and register the matter in their records regardless of notifying union council of the final decree of family court in any later date within the three months

It is further prayed that services of all accused employees may be terminated and be punished for offense of contempt of court.

It is further prayed that a direction be issued respondent # 3 to direct all administrators of union councils and Municipal offices to give their staff the education of articles of Local government Act and awareness of their function and powers delegated under the Act and may make a system of check and balance and accountability and may take action directly instead of common man is being forced to approach the higher courts.

Any other relief, which this Hon'ble Court deems fit and appropriate in view of the averments made in the petition may also be awarded for the sake of holding of free and fair election in the country.

**PETITIONER IN PERSON**

***(SHUMAILA MALIK)***

President, Insaaf Society, resident of 42 Jinnah Block, Awan Town, Lahore Pakistan

**IN THE LAHORE HIGH COURT, LAHORE**

**Writ Petition No. \_\_\_\_\_/2014**

**Insaf Society VS Govt of Punjab etc**

**AFFIDAVIT OF SHUMAILA MALIK, PRESIDENT  
INSAF SOCIETY, FATIMA HOUSE, 13 FANE  
ROAD, LAHORE (PRESENTLY 42 JINNAH BLOCK,  
AWAN TOWN, LAHORE PAKISTAN)**

***I the above named deponent do hereby  
affirm and declare as under:-***

That the petitioner has filed the titled writ Petition before this Hon'ble Court, the contents of which are true and correct to the best of my knowledge and belief.

**DEPONENT**

**VERIFICATION**

Verified on Oath at Lahore on this 11<sup>th</sup> Day of February 2014 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed