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26.05.22

MOST IMMEDIATE
Constitution Petition No. 19/2022-SCJ
SUPREME COURT OF PAKISTAN.
Islamabad, 25th May, 2022.

From

The Registrar,
Supreme Court of Pakistan,
Islamabad.

To

1. The Attorney General for Pakistan,
Islamabad
2. The Advocate General, Punjab,
At Islamabad.
3. The Advocate General, Sindh,
At Islamabad.
4. The Advocate General, Khyber Pakhtunkhwa,
At Islamabad.
5. The Advocate General, Balochistan,
At Islamabad.
6. The Advocate General, ICT,
At Islamabad.
7. The Registrar,
Lahore High Court,
Lahore C/o Deputy Registrar (L)
8. The Registrar,
High Court of Sindh,
Karachi C/o Deputy Registrar (K)
9. The Registrar,
Peshawar High Court,
Peshawar C/o Assistant Registrar (Peshawar)
10. The Registrar,
High Court of Balochistan,
Quetta C/o Assistant Registrar (Quetta)
11. The Registrar,
Islamabad High Court,
Islamabad
12. The Secretary,
Ministry of Interior,
Government of Pakistan,
Islamabad.
13. The Chairman,
Pakistan Electronic Media Regulatory Authority
Islamabad.
14. The Chief Commissioner, ICT
Islamabad.
15. The Deputy Commissioner, Attock
Attock.
16. The Inspector General of Police, ICT
Islamabad.
17. The Inspector General of Police, Punjab,
Lahore C/o Deputy Registrar (Lahore)
18. Dr. Babar Awan, Sr. ASC
Islamabad.
19. Mr. Shoaib Shaheen, ASC for the Petitioner
Through Syed Rifaqat Hussain Shah,
AOR for the petitioner,
Islamabad.

Contd...

Received Reg office 26.05.22

Subject: CONSTITUTION PETITION No. 19 OF 2022
Islamabad High Court Bar Association through
Its President **...Petitioner(s)**

Versus.

Federation of Pakistan through
Secretary, M/O Interior Islamabad and others

...Respondent(s)

I am directed to enclose herewith a certified copy of the order dated **25.05.2022** passed in the above cited case.

I am further directed to invite your attention to the directions of the Court contained in the enclosed order for information and further necessary action.

Encl: As above



ASSISTANT REGISTRAR (Civil-II)
for REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

MR. JUSTICE IJAZ UL AHSAN
MR. JUSTICE MUNIB AKHTAR
MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

Constitution Petition No.19 of 2022

(Under Article 184(3) of the Constitution of the Islamic Republic of Pakistan, 1973 for enforcement of fundamental rights contained in the Constitution for the protection of the citizen of Pakistan.)

Islamabad High Court Bar Association ... **Petitioner**
through its President Muhammad Shoaib
Shaheen, Islamabad

Versus

Federation of Pakistan through Secretary ... **Respondents**
Ministry of Interior, Islamabad and others

For the Petitioner : Mr. M. Shoaib Shaheen, ASC
a/w Ch. Ishtiaq Ahmed Khan, ASC
Mr. Niaz ullah Khan Niazi, ASC
Syed Rifaqat Hussain Shah, AOR

On Court's call : Mr. Ashtar Ausaf Ali, A.G.P.
Ch. Aamir Rehman, Addl. A.G.P.
Assisted by:
Mr. Munawar Iqbal Duggal, ASC
Barrister M. Usama Rauf

Mr. Jehangir Jadoon, A.G., Islamabad
Barrister Qasim Ali Chohan, Addl.
A.G., Punjab


Mr. Ayaz Khan Swati, Addl. A.G.,
Balochistan

Mr. Salman Talib-ud-Din, A.G., Sindh
(Via Video-Link, Karachi)

Mr. Fauzi Zafar, Addl. A.G., Sindh

Mr. Shumail Butt, A.G., KP.
Mr. Atif Ali Khan, Addl. A.G., KP.
(Via Video-Link, Peshawar)

Mr. Yousaf Naseem Khokhar,
Secretary, Ministry of Interior


Mr. Ashtar Ausaf Ali
Counsel for the Petitioner

Commissioner, I.C.T.
Mr. Irfan Nazir, D.C., I.C.T.
Mr. Akbar Nasir Khan, I.G.P., I.C.T.

For P.T.I. : Dr. Babar Awan, Sr. ASC
Mr. Fasil Fareed, ASC
a/w Mr. M. Ali Bokhari, ASC
Syed Qalb e Hassan, ASC

Date of Hearing : 25.05.2022

ORDER

Ijaz ul Ahsan, J. - We have heard learned counsel for the petitioner and Dr. Babar Awan, learned Sr. ASC for PTI, learned Attorney General for Pakistan as well as the Secretary, Ministry of Interior, the Chief Commissioner, ICT and the IGP, ICT in the earlier part of the day. We had directed Dr. Babar Awan, learned Sr. ASC as well as Mr. Faisal Fareed, learned ASC to seek instructions from the PTI leadership regarding the venue at which they wish to hold their protest rally. We had also directed them to seek assurances from the party leadership that the workers/supporters would remain peaceful and follow the guidelines issued by this Court from time to time and shall not obstruct road traffic, cause any damage to public/private property and not take the law in their own hands. On instructions from the top leadership of PTI Dr. Babar Awan, learned Sr. ASC has submitted that the venue, which was provided for the rally of JUI(F) sometime ago, being the ground/area between Sectors H-9 and G-9 should be made available to PTI also to hold its rally. The application dated 23rd May, 2022 moved on behalf of PTI mentions the same venue.

2. The learned Attorney General for Pakistan has pointed out that venue being sought by PTI cannot accommodate more than around 10,000 persons and it is being claimed by PTI that a crowd much larger than that is expected, which, if true, would among other things

inconvenience to the public. The Chief Commissioner, ICT states that any order passed by this Court regarding the venue shall be fully complied with. The IGP, Islamabad submits that all requisite security arrangements shall be put in place as per the SoPs for such events.

3. In view of the fact that a categorical assurance has been given on behalf of the top leadership of PTI that their rally would not cause any inconvenience or blockage of Sri Nagar Highway nor otherwise inconvenience the public and citizenry at large, and that it shall be ensured that the rally is conducted in a peaceful and lawful manner without, in particular, causing any damage of any nature to public or private property, we direct the Chief Commissioner, ICT to provide the same venue for the rally as was provided to JUI(F) sometime ago, which is (as noted above) the ground located between Sectors H-9 and G-9 area of the Islamabad. All concerned authorities including, in particular, the IG, Police shall immediately and speedily take all measures (including those relating to security) as are required to prepare the venue for the holding of the rally. The IG Police is directed to ensure that there is no delay in this regard and shall give a presentation by way of progress made/work completed to this Court on the next date of hearing.

4. We have been informed by Mr. Muhammad Shoaib Shaheen, learned ASC for the petitioner that a large number of lawyers have been arrested without due process of law and without any charge. According to him, this is an attempt to prevent and obstruct participation of such lawyers in the protest rally. The learned Attorney General for Pakistan has informed us that lawyers who are not accused of any heinous offence as reflected in any FIR so far recorded shall be released from custody forthwith. He has further assured us that houses, offices and other private/residential places

inconvenience to the public. The Chief Commissioner, ICT states that any order passed by this Court regarding the venue shall be fully complied with. The IGP, Islamabad submits that all requisite security arrangements shall be put in place as per the SoPs for such events.

3. In view of the fact that a categorical assurance has been given on behalf of the top leadership of PTI that their rally would not cause any inconvenience or blockage of Sri Nagar Highway nor otherwise inconvenience the public and citizenry at large, and that it shall be ensured that the rally is conducted in a peaceful and lawful manner without, in particular, causing any damage of any nature to public or private property, we direct the Chief Commissioner, ICT to provide the same venue for the rally as was provided to JUI(F) sometime ago, which is (as noted above) the ground located between Sectors H-9 and G-9 area of the Islamabad. All concerned authorities including, in particular, the IG, Police shall immediately and speedily take all measures (including those relating to security) as are required to prepare the venue for the holding of the rally. The IG Police is directed to ensure that there is no delay in this regard and shall give a presentation by way of progress made/work completed to this Court on the next date of hearing.

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shall not be raided in an attempt to arrest any political worker/member, sympathizer of PTI, etc. Further all workers/members and/or sympathizers and the leadership of any political party, including PTI, shall not be arrested till further orders unless any offence of a heinous nature is alleged to have been committed by him.

5. All political leaders/political workers or supporters/sympathizers or members of any political party who have been arrested in the last 48 hours, unless commission of any heinous offence has been alleged in any FIR lodged so far, shall be released forthwith.

6. As far as the persons against whom FIRs have been lodged or other action relating to their detention or arrest has been taken, and who have already approached the respective High Courts are concerned, and all such persons as aforesaid who have not yet done so may approach the High Courts, and the said Courts shall, notwithstanding the proceedings before this Court take up and/or continue with (as the case may be) those matters on an urgent basis and pass such orders as deemed appropriate in accordance with law.

7. As directed by this Court, the PTI leadership has nominated the following persons to conduct negotiations in a committee for purposes of peaceful management of the rally and for finalizing the modalities for the same in order to ensure that no untoward incident takes place or public or private property is damaged or inconvenience is caused to the general public. Such committee on behalf of PTI consists of the following:

- 1) Dr. Babar Awan, Sr. ASC
2. Mr. Amir Kiyani,
3. Mr. Faisal Fareed, ASC
4. Mr. Ali Awan

8. On instructions received from the Prime Minister, the learned Attorney General for Pakistan has informed us that on behalf of the government the following persons shall participate in the committee that is constituted to conduct the aforesaid negotiations:

1. Mr. Yousaf Raza Gillani
2. Mr. Ayaz Saddiq
3. Mr. Faisal Sabzwari
4. Mr. As_had Mehmood
5. Mr. Azam Nazir Tarar, Law Minister
6. Mr. Agha Jan
7. Mr. Khalid Magsi
8. Mr. Ahsan Iqbal

The learned Attorney General for Pakistan has informed us that the said committee shall be available for the purposes of negotiations at a mutually agreed venue and time.

9. A Committee comprising of the aforesaid members is hereby constituted for the purposes as noted above. It shall meet at the office of the **Chief Commissioner, Islamabad** who is directed to facilitate and make the requisite arrangements for the meeting of the Committee at 10:00 pm today. The members of the Committee from the side of PTI have, through Dr. Babar Awan, expressed a desire to meet the leadership of their party in order to obtain instructions so that the negotiations can be conducted efficaciously. We therefore direct Secretary, Ministry of Interior as well as I.G Police, Islamabad, I.G Police, Punjab and Deputy Commissioner, Attock to facilitate such meeting and safe return of the said members of the Committee in order to attend the aforementioned meeting.


CHIEF COMMISSIONER
ISLAMABAD

10. The Court expects that the top leadership of all concerned parties will inform and direct their worker/supporters/sympathizers to stay calm, disengage and not create any law and order situation under any circumstances. We also expect the top functionaries of the

Government including the Interior Ministry to ensure that excessive and disproportionate use of force is immediately discontinued.

11. The learned Attorney General has on instructions categorically informed us that the Government is fully committed to uphold the rule of law and adhere to democratic norms. As a first step, and in order to establish the bona fides of the Government, the learned Attorney General has obtained the requisite instructions and immediately without loss of time the Committee as aforesaid has been constituted in order to ensure that the situation de-escalates and better sense prevails. The learned Attorney General has also informed us that the Government is fully committed to the ideals of the Constitution and would fully abide by the law, and the sanctity of homes and offices shall not be violated under any circumstances.

12. We have been provided with a copy of the code of conduct which was agreed between the parties at the time when a similar rally was earlier held in Islamabad. Let a copy of the said code of conduct be shared with Dr. Babar Awan, learned Sr. ASC as well as the learned counsel for the petitioner. The said code of conduct shall be the first item on the agenda of the meeting to be held by the Committee. Any of the parties that wish to deviate/diverge from it shall furnish reasons and justification for the same to this Court. If any of the parties wishes to add any other condition, the same may be incorporated with the consent of both sides and in the event of disagreement the same shall be brought before this Court.

13. We have been informed that various buses and transport vehicles have either been impounded or their route permits cancelled without just cause and without following the due process of law. The buses and transport vehicles which have been impounded, restrained/disallowed from operating in the last 48 hours and for which lawful orders after fulfilling due process requirements have not

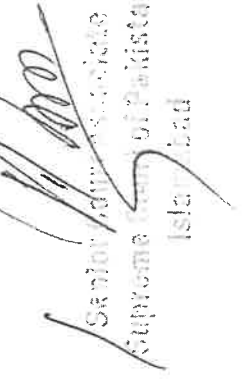
been passed in accordance with law shall be released and licenses/route permits shall be restored forthwith, provided that show cause notices may be issued in case fresh proceedings need to be initiated in accordance with law.

14. The proceedings and statements made in this Court being a sub judice matter shall not be made the subject matter of any press conferences/talk shows/comments by any person including but not limited to the leadership, members or representatives of either side.

This matter shall be taken up tomorrow i.e. 26.05.2022 at 09:30 a.m.

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CERTIFIED TRUE COPY


Senior Advocate
Supreme Court of Pakistan
Islamabad

Islamabad, the
25th May, 2022
Naveed/*.

Not approved for reporting