ORDER SHEET

IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. D-385 of 2025

Muhammad Waseem Ahmed V/S Federation of Pakistan & others

Date	Order with Signature(s) of Judge(s)

Before: Justice Muhammad Saleem Jessar
Justice Nisar Ahmed Bhanbhro

Petitioner Muhammad Waseem Ahmed	:	Through Mr. Imdad Ali Malik, Advocate
Respondents Fed.of Pakistan & Others	:	Through Mr. Rasheed Ahmed Gabol, Additional Prosecutor General, Sindh.
Date of hearing	:	20.04.2026
Date of order	:	17.08.2025
Date of Announcement	:	27.08.2025

ORDER

MUHAMMAD SALEEM JESSAR, J- Through instant Petition, the Petitioner has claimed following relief:

A) To direct the respondents to delete the name of the Petitioner from the list of IVth Schedule of ATA, Act.

B) To direct the respondents to delete the name of Petitioner from NACTA (National Counter Terrorism Authority).

C) To direct the Respondents to allow the Petitioner to visit the foreign Country Malavi on visa according to law.

D) To award Cost of the Petition.

E) To grant any other relief as this Honorable Court deems fit in the above circumstances.

2. It is the case of petitioner that he was falsely involved and arrested in many criminal cases by the police in the year of 2010 and after facing trial until 2020, was either acquitted or released on bail in almost all cases. In year 2024, Petitioner applied for Visa to visit Malavi, which was granted, however, when he went to State Bank of Pakistan for exchange of currency into Dollar, he was declined exchange on the ground that his name was placed under Fourth Schedule to Anti-Terrorism Act, 1997 (ATA, 1997) and NACTA List. Hence this Petition.

3. In their separate replies, the Additional Chief Secretary to Government of Sindh and Secretary, Ministry of Home Affairs, Government of Pakistan asserted that petitioner's name had been placed in Fourth Schedule of ATA-1997 vide Home Department's Notification No. SO (Judl-II)HD/8-03/2024 dated 14.10.2022 as per the recommendations/request of Provincial High Level Committee (the Committee) comprising of DIGP CTD (Chairman), DIGP Special Branch and AIGP Operation CPO and as per reports furnished by concerned departments, petitioner was affiliated with proscribed (banned) organization Lashkar-e-Jhangvi and number of cases were registered against him, therefore, on the basis of such recommendation of the Committee, name of petitioner was enlisted in Fourth Schedule of ATA-1997 notification referred herein above and placed under proscribed list by invoking the powers conferred under Section 11-EE of Anti-Terrorism Act, 1997 (ATA, 1997).

4. Learned counsel for Petitioner contended that Petitioner was falsely involved in criminal cases in which he was acquitted. He contended that Petitioner's name was placed under Fourth Schedule and NACTA without following due process of law. He contended that Petitioner was a respectable citizen of the country and enjoyed the right of freedom of movement. He further contended that Petitioner was condemned unheard, while placing his name under Fourth Schedule and Proscribed List. He therefore, prayed to direct the Respondents to remove the restrictions placed against Petitioner.

5. Controverting the submissions, learned Law Officer contended that Petitioner was involved in criminal cases and was an active worker of Lashkar e Jhangvi, a proscribed organization. It was contended, that the enlistment of the individuals in the fourth Schedule of ATA, 1997 is done by invoking the powers conferred under Section 11EE; that the powers and functions of the Federal Government as specified under Section 11 EE of the ATA, were

delegated to respective Provincial Government's Home Departments. It was further contended that Proscription Review Committees were set up at provincial levels to examine the cases of individuals placed under "Ban List"; that the Petitioner has not approached the "Proscription Review Committee" instead filed instant petition, which is not maintainable under the law and liable to be dismissed.

6. Heard Arguments. Perused material made available before us on record.

7. Controversy in nutshell involved in present petition pertains to placement of name of Petitioner in Fourth Schedule of ATA, 1997. Being special enactment, ATA, 1997 was promulgated to ensure measures necessary to curb terrorism in the country. The provisions of ATA, 1997 conferred powers upon Federal Government to supervise the activities of organizations and to take actions against such organization, which are found to facilitate, or participate in acts of terrorism; to prepare for terrorism; to promote or to encourage terrorism; to support and to assist any organization concerned with terrorism; to patronize and assist in the incitement of hatred and contempt on religious, sectarian or ethnic lines that stir up disorder; failed to expel from its ranks or ostracize those who commit acts of terrorism and to present them as heroic persons; or is otherwise concerned in terrorism. On availability of credible information, the Federal Government may, by order published in the official Gazette, list an organization as a proscribed organization in the First Schedule on an ex parte basis, if there are reasonable grounds to believe that it is owned or controlled, directly or indirectly, by any individual or organization proscribed under ATA, 1997 acting on behalf of, or at the direction of, any individual or organization proscribed. The opinion concerning reasonable grounds to believe may be formed on the basis of information received from any credible source, whether domestic or foreign including governmental and regulatory authorities, law enforcement agencies, financial intelligence units, banks and non-banking companies, and international institutions. When an organization is placed under proscription, the reasons thereof, shall be communicated to the proscribed organization within three days of the passing of the order of proscription. Any organization, if aggrieved by the order of Federal Government, may, within thirty days of such order, file a review application, in writing, before the Federal Government, stating the grounds on which it is made and the Federal Government shall, after hearing the applicant, decide the matter on reasonable grounds within ninety days. If the Review

Application is dismissed, the organization may file an appeal to the High Court within thirty days of the refusal of the review application. For deciding the applications of aggrieved persons, the Federal Government has constituted a "Proscription Review Committee", comprising of three Government officers, including a representative of the Ministry of Law and Justice, with Chairman of the Committee being a person not below the rank of a Joint Secretary to the Federal Government. Review Committee is required to decide the applications within stipulated time. Where the Federal Government, has reasonable grounds to believe that an organization is acting in a manner that it may be concerned in terrorism: the name of the organization is listed in the Second Schedule to ATA, 1997.

8. Section 11E of ATA, 1997 further conferred powers upon Federal Government to take measures to ensure that the activities of proscribed organization are stalled, that included sealing of its offices, seizing of all literature, posters, banners, or printed, electronic, digital or other material; and prohibition of publication, printing or dissemination of any press statements, press conferences or public utterances by or on behalf of or in support of a proscribed organization. Upon proscription of an organization if the office bearers, activists, or the members or the associates of such organizations are found continuing the activities of the proscribed organization, in addition to any other action under ATA, 1997 or any other law for the time being in force to which they may be liable, they shall not be issued any passport or allowed to travel abroad; no bank or financial institution or any other entity providing financial support shall provide any loan facility or financial support to such persons or issue the credit cards to such persons; and the arms licenses, if already issued, shall be deemed to have been canceled and the arms shall be deposited forthwith in the nearest Police Station, failing which such arms shall be confiscated and holders of such arms shall be liable for prosecution provided under Arms Act. No fresh license, to such persons for any kind of weapon, shall be issued. The Proscribed Organization shall submit all accounts of its income and expenditure for its political and social welfare activities and disclose all funding sources to the competent authority designated by the Federal Government.

9. Scanning of the material available on record revealed that Federal Government had declared "Lashker e Jhangvi" Proscribed Organization. On Proscription, no individual can retain its association with the said organization.

Petitioner was allegedly involved in the activities pertaining to proscribed organization, the Inspector General of Police Sindh vide its report dated 29.08.2024 recommended to place Petitioner's name in Fourth Schedule, the recommendation was based upon the information collected through credible sources and was placed before the provincial committee headed by DIGP, CTD Sindh dealing with the matters. The recommendation was acceded to by Home Department Government of Sindh who vide its notification dated 14.10.2024 placed Petitioner's name under Fourth Schedule of ATA, 1997. Section 11-EE of ATA, 1997 confers such powers to the Government. Before proceeding further, it would be conducive to refer the referred provisions of law, that reads as under:

> *11EE. **Proscription of person.**– (1) The Federal Government may, by order published in the official Gazette, list a person as a proscribed person in the fourth Schedule on an ex-parte basis, if there are reasonable grounds to believe that such person is—*
>
> > *(a) concerned in terrorism;*
> >
> > *(b) an activist, office bearer or an associate of an organization kept under observation under section 11D or proscribed under section 11B; and*
> >
> > *(c) in any way concerned or suspected to be concerned with such organization or affiliated with any group or organization suspected to be involved in terrorism or sectarianism or acting on behalf of, or at the direction of, any person or organization proscribed under this Act:*
> >
> > ***Explanation**. The opinion concerning reasonable grounds to believe may be formed on the basis of information received from any credible source, whether domestic or foreign including governmental and regulatory authorities, law enforcement agencies, financial intelligence units, banks and non-banking companies, and international institutions.*
> > *(1-A) The grounds shall be communicated to the proscribed person within three days of the passing of the order of proscription.*
> > *(2) Where a person's name is listed in the Fourth Schedule, the Federal Government, as the case may be, without prejudice to any other action which may lie against such person under this Act or any other law for the time being in force, may take following actions and exercise following powers, namely: -*
> >
> > > *(a) require such person to execute a bond with one or more sureties to the satisfaction of the District Police Officer in the territorial limits of which the said person ordinarily resides, or carries on business, for his good behaviour and not involve in any act of terrorism or in any*

manner advance the objectives of the organization referred to sub-section (1) for such period not exceeding three years and in such amount as may be specified:

Provided that where he fails to execute the bond or cannot produce a surety or sureties to the satisfaction of the District Police Officer order him to be detained and produced within twenty-four hours before a court which shall order him to be detained in prison until he executes the bond or until a satisfactory surety or sureties if required, are available or, failing that the term of the order under clause (a) expires:

Provided further that where he is a minor, the bond executed by a surety or sureties only may be accepted,

(b) require any such person to seek prior permission from the officer incharge of the Police Station of the concerned area before moving from his permanent place of residence for any period of time and to keep him informed about the place he would be visiting and the persons, he would be meeting during the stay,

(c) require: (i) that his movements to be restricted to any place or area specified in the order,
(ii) him to report himself at such times and places and in such mode as may be specified in the order;
(iii) him to comply with both the direction,
(iv) that he shall not reside within areas specified in the order,
(v) no bank or financial institution or any other entity providing financial support shall provide any loan facility or financial support to proscribed person or issue credit cards to proscribed persons; and
(vi) the arms licenses, if already issued, shall be deemed to have been cancelled and the arms shall be deposited forthwith in the nearest Police Station, failing which such arms shall be confiscated and the holders of such arms shall be liable for the punishment provided under the Pakistan Arms Ordinance, 1965 (W.P. Ord. XX of 1965). No fresh license shall be issued to such person for any kind of weapons;
(d) direct that he shall not visit or go within surroundings specified in the order including any of the under mentioned places, without the written permission of the officer incharge of the Police Station within whose jurisdiction such place is situated, namely:—
(i) schools, colleges and other institutions where persons under twenty-one years of age or

women are given education or other training or are housed permanently or temporarily;
(ii) theaters, cinemas, fairs, amusement parks, hotels, clubs, restaurants, tea shops and other place of public entertainment or resort;
(iii) airports, railway stations, bus stands, telephone exchanges, television stations, radio stations and other such places;
(iv) public or private parks and gardens and public or private playing fields; and
(v) the scene of any public meeting or procession of any assemblage of the public whether in an enclosed place or otherwise in connection with any public event, festival or other celebrations;
(e) check and probe the assets of such persons or their immediate family members i.e., parents, wives and children through police or any other Government agency, which shall exercise the powers as are available to it under the relevant law for the purposes of the investigation, to ascertain whether assets and sources of income are legitimate and are being spent on lawful objectives:

Provided that no order under clause (d) or (e) above shall be made operative for a period of more than three years; and

(f) monitor and keep surveillance over the activities of such person through police or any other Government agency or any person or authority designated for the purpose.

(3) Where any person is aggrieved by the order of the Federal Government made under sub- section (1), he may, within thirty days of such order, file a review application, in writing, before the Federal Government stating the grounds on which it is made and the Government shall, after hearing the applicant, decide the matter on reasonable grounds within ninety days.

(3-A) A person whose review application has been refused under sub-section (3) may file an appeal to the High Court within thirty days of the refusal of the review application. (4) Any person who violates any direction or order of the Federal Government or any terms of bond referred to in sub-section (2), shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

10. From perusal of above provisions of law, it is crystal clear that Federal Government is empowered to place the name of any person in the Fourth Schedule of ATA, 1997 found involved in the activities relating to proscribed organization. Petitioner's name under Fourth Schedule was placed by the

Provincial Government, which as a case of first impression may appear to be in contravention of above provisions. Nonetheless, the ATA, 1997 conferred powers to Federal Government to delegate its powers subject to such conditions by a notification. Section 33 of the ATA, 1997 being relevant reads as under:

> *33. **Delegation**. − The Government may, by notification, delegate, subject to such conditions as may be specified therein, all or any of the powers exercisable by it under this Act.*

11. From above provisions it is vivid and clear that Federal Government in exercise of powers may delegate its powers. Scanning of the record revealed that Federal Government by invoking the referred provisions of law had already delegated its powers to the Provincial Home Secretaries of each Province as well as Chief Commissioner Islamabad Capital Territory vide notification dated 29th October, 2014; this being so petitioner's placement in the Fourth Schedule by the Additional Chief Secretary To Government of Sindh, Home Department was an act well within remit of law.

12. Apart from above, ATA, 1997 lays down a procedure for redressal of grievance of an aggrieved person, firstly by approaching the Proscription Review Committee. If Review Committee authenticated the recommendation and declined the review application then aggrieved person had the remedy of appeal before High Court within 30 days of the order in terms of sub section 3-A of Section 11 - EE of ATA, 1997.

13. Petitioner instead of availing the remedies available under the statute has invoked the writ jurisdiction of this Court. The writ jurisdiction of this Court is available to seek enforcement of the fundamental rights but at the same time, this jurisdiction cannot be deemed to be an alternative or additional jurisdiction and cannot be exploited to disrupt or impede the procedural law on the basis of presumptive findings or hyper-technicalities. Instead, it is intended to protect and safeguard the interests of justice and to redress grievances of aggrieved persons, for which no other procedure or remedy is provided in the relevant law. Therefore, ordinary remedy provided under the law cannot be bypassed or circumvented. Assertion of the Petitioner that he was condemned unheard and was kept blind on issuance of notification as no intimation was sent to him, will not automatically bring his case within the ambit of Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 which conferred the

powers of judicial review to this Court against the actions of executive authority discharging its functions in connection with the affairs of Federation or Province, when found contrary to law, the same be set at naught. Petitioner has failed to establish that he was prevented by sufficient cause to avail the statutory remedies envisaged under the law, even the written replies of the Respondents have not been denied through an affidavit-in-rejoinder to say that Petitioner was not involved in such activities and placed under Ban List under some extraneous consideration.

14. For the aforementioned reasons, no case for indulgence of this Court is made out. Consequently, this Petition fails and is hereby dismissed accordingly. The Petitioner; however, is at liberty to approach the concerned authority for removal of his name, if so advised.

JUDGE
HEAD OF CONSTT. BENCHES

Approved for reporting JUDGE