

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-351 of 2020

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on Misc. No.1518/2020.
2. For orders on Misc. No.1519/2020.
3. For orders on Misc. No.1520/2020.
4. For hearing of main case.

20.01.2020.

Mr. Faisal Siddiqui, Advocate for the Petitioners.

Mr. Kafeel Ahmed Abbasi, DAG.

M/s. Ghulam Shabbir Shah, Muhammad Sarwar Khan,
Jawwad Dero, Addl. A. Gs and Shahrayar Mehar, Assistant
A. G.

1. Urgency granted.

2. Exemption is allowed subject to all just exceptions.

3&4. The Petitioner has brought this Petition for enforcement of Article 12 (2) of the Sindh (Repeal of the Police Act, 1861 and Revival of Police Order, 2002) (Amendment) Act, 2019 in its letter and spirit. They have also filed an interlocutory application under Section 94 read with Section 151 CPC with the request that during the pendency of the Petition, directions be issued to the Respondents No.1 to 5 not to remove or surrender the services of the Respondent No.6, without substantive consultation with the Federal Government as required under Article 12 (2) of the aforesaid Act including the directions as contained in the judgment passed by the learned Division Bench of this Court reported as **PLD 2018 Sindh 08 (Karamat Ali & others vs. Federation of Pakistan & others)**.

Learned counsel for the Petitioner has referred to Page-503, which is a copy of the aforesaid Law and he specifically referred to Article 12 (1), which provides three years tenure and posting of Inspector General of Police under Article 11. He has argued that without meaningful consultation with the Federal Government, the Provincial Government has decided to surrender the services of the Inspector General of Police, Sindh unilaterally to the Establishment Division, Government of Pakistan. He has also attached a copy of letter available at Page-43, which was communicated to the Secretary, Establishment Division, Government of Pakistan dated 06.01.2020, in which they pointed out the Proviso of the aforesaid law that the Provincial Government or the Federal Government may for compelling reasons, in consultation with each other, repatriate, or recall, the Inspector General of Police, as the case may be. Some allegations have also been leveled regarding performance of the Inspector General of Police, Sindh. This letter was transpiring decision of Provincial Cabinet, Government of Sindh, which was communicated to the Secretary, Establishment Division, Government of Pakistan for recalling the services of Mr. Kaleem Imam, Inspector General of Police, Sindh and posting of new IGP with mutual consultation between the Federal and Provincial Government as laid down in the aforesaid law. It was further communicated that till the new IGP is posted, Government of Sindh will assign look after charge of the post of IGP to an Additional IGP (BS-21) currently working in the Province of Sindh. Learned counsel for the Petitioner has further argued that nothing is on record to show any consultation of the Government of Sindh with the Federal Government rather at Page-711 of the file, a letter dated 17.01.2020 is available to show that in response to Government of

Sindh letter dated 16.01.2020, the Establishment Division, Cabinet Secretariat, Government of Pakistan communicated to the Chief Secretary, Government of Sindh that the transfer/posting of the Provincial Police Officer (PPO)/Inspector General of Police (IGP) is made by the Federal Government in consultation with the Provincial Government concerned in accordance with the procedure prescribed in the Paragraph-11 (iv) of the Inter-Provincial Agreement reached between the Federal Government and the Federating Units on 19.09.1993. It was further communicated that the look after charge of the post of PPO/IGP Sindh cannot be assigned to any Additional Inspector General of Police working in the Province being not covered under the Inter-Provincial Agreement, 1993 and in case the Competent Authority decides to transfer Mr. Kaleem Imam, Inspector General of Police, Sindh, a stopgap arrangement can only be made by the Competent Authority. It was further communicated in the Paragraph-04 of the same letter that the issue of recall of Inspector General of Police, Sindh and posting of his replacement, as requested by the Government of Sindh, is being taken up with the Competent Authority. The decision of the same will be communicated to the Government of Sindh. It was further communicated that in the meantime, the incumbent PPO/IGP, Sindh, Mr. Kaleem Imam shall continue to discharge his duties as unilateral repatriation of PPO/IGP, Sindh and look after charge of the post cannot be assigned to any Additional Inspector General of Police by the Government of Sindh.

Mr. Kafeel Ahmed Abbasi, learned DAG and M/s. Ghulam Shabbir Shah, Muhammad Sarwar Khan, Jawwad Dero, learned Additional Advocates General, Sindh and Mr. Shahrayar Mehar, learned Assistant

Advocate General, Sindh waive notice and want some time to file Reply. Mr. Ghulam Shabbir Shah, learned Additional Advocate General, Sindh has argued that no action in violation of Article 12 (2) of the Sindh (Repeal of the Police Act, 1861 and Revival of Police Order, 2002) (Amendment) Act, 2019 will be taken by the Government of Sindh. He further submits that neither the services of the Inspector General of Police, Sindh has been surrendered/suspended nor he has been removed. So far as the question of surrendering the services of the Inspector General of Police, Sindh, the Provincial Government has already communicated to the Federal Government and consultation process has been started.

Issue notice to the Respondents. Counter affidavit, if any, may be filed before the next date. However, till the next date of hearing the services of Inspector General of Police, Sindh shall not be surrendered without consultation of the Federal Government in terms of Article 12 (2) of the Sindh (Repeal of the Police Act, 1861 and Revival of Police Order, 2002) (Amendment) Act, 2019. Adjourned to 28.01.2020.

JUDGE

JUDGE

MUBASHIR