

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Agha Faisal

C.P. No. D-948 of 2021

Ameer Jahan/Bisma Noreen
Versus
Federation of Pakistan & others

Date of Hearing: 04.10.2021

Petitioner: In person.

Respondents: Through Mr. Kafeel Ahmed Abbasi, Deputy Attorney General along with Mr. Hussain Bohra, Assistant Attorney General.

J U D G M E N T

Muhammad Shafi Siddiqui, J.- In this petition, petitioner appeared as pro-bono and claimed following reliefs:-

لہذا ذمیداران نمبر ۱، ۲، ۳، ۴، ۵، ۶، ۷، ۸، ۹، ۱۰، ۱۱ کو احکامات صادر کیے جائیں کہ وہ اسکی مکمل ینکوائری رپورٹ عدالت میں جمع کروائیں۔ ذمہ دار نمبر ۱، ۲، ۳، ۴، ۵، ۶، ۷، ۸، ۹، ۱۰، ۱۱ کو احکامات صادر کیے جائیں کہ G5 ٹیکنالوجی کی بلاوجہ اور غیر ضروری تشہیر کو بند کرے اشتہارات کے ذریعے عوام کو گمراہ کرنے سے باز آئے۔

اقوام متحدہ کے قوانین اور فائنیشنل ایکشن ٹاسک فورس کے قوانین سے پہلے اسلامی ریاست پاکستان کے آئین کے اہمیت ہے۔ جبکہ آئین کی موجودگی میں فائنیشنل ایکشن ٹاسک فورس کے قوانین زبردستی اسلامی ریاست پر مسلط کرنا بھی آئین کی صریحاً خلاف ورزی ہے لہذا ذمہ داران کو احکامات صادر کیے جائیں کہ آئین کے بالادستی کیلئے ٹھوس اقدامات اٹھائیں اور G5 ٹاورز اور واکسین پر فوری پابندی عائد کی جائے جو کہ انسانی زندگی کیلئے نا صرف مضر صحت ہے بلکہ دجالی سسٹم کا ایک ٹھوس نمونہ ہے۔

We have heard the petitioner and perused the petition which appears to be in respect of 5-G (Fifth Generation) technology and Covide-19 and vaccination thereof.

Petitioner who is appearing in person has not utter a single word as to how the consequences of 5-G technology, wherefrom the entire world is benefitting and/or intends to seek benefits, could be a health

hazard and she has only rested her arguments to the effect that it is injurious to health and hence illegal and unlawful. Documents attached with memo are articles and private views and some of them are based on surmises and conjectures. One of the documents is even contrary to petitioner's personal views which is at page 111 which reads as under:-

“How Baseless fears over 5G rollout created a health scare

Misconceptions about the technology and lack of consultation with local communities may have boosted conspiracy theory.”

Fifth Generation technology is making its roots across the world and all countries have framed policies to get benefit out of it. Fifth Generation technology caters for faster browsing, streaming, uploading and downloading speed with better connectivity. Its adoption perhaps is the only way out to be at par with rest of the world. Its application is nowadays common in robotic devices, self-driven cars, medical devices etc.

Insofar as Covid-19 is concerned, perhaps the petitioner is not even remotely aware of the consequences of Corona Virus disease that triggered in 2019 and is yet to be controlled; there are international and national policies which are being towed by different departments of the provincial as well as federal government including health departments. The world is facing this novel experience which is never seen before is pandemic in nature and since last two years efforts are being made to have a complete control over it. Research progress is continued however the precautionary measures to control its maximum effect is being taken and monitored in the entire world by way of enhancing the immunity of body i.e. resistance against the virus (Covid-19). One should not be an obstacle by saying that he/she is not interested in such scheduled vaccination as this might result in rapid growth/increase/ontogenesis of Corona Virus.

This issue came up for consideration earlier also before a Bench of this Court and after hearing the counsel a detailed order was passed which is as under:-

“We are passing through a phase where a cataclysmic virus named as Covid-19 has reached its peak. Recently we have crossed positivity ratio of 30% out of tests performed in Karachi’s different districts, which is frightening. To face this pandemic situation, both federal and provincial governments are striving to take strict measures to handle the situation and to curb this pandemic growth. While the two governments i.e. federal and provincial are active in minimizing the effect of pandemic, before us this petition has been placed that the decision of respondents i.e. federal and provincial governments to impose a condition of mandatory vaccination to enable them (citizens) to move freely is contrary to their fundamental rights as enshrined under Article 2/A, 4(2)(c), 4(1)(2)(b) read with Article 9 of the Constitution of Islamic Republic of Pakistan, 1973. Petitioner has not even cited a single notification to demonstrate as to how it is contrary to law and which additional legislation is required.

It is not only the petitioner for whom the respondents, including federal and provincial governments, have taken this decision but in fact the respondents in pursuit of their responsibilities to take care of the health of entire nation, have issued numerous notifications, circulars to curb the virus spread. Petitioner, instead of being supportive, is being troublesome in the smooth operation of effective measures undertaken by government. The government is primarily responsible to take care of health of 220 million citizens of Pakistan and hence the desire of one person being petitioner cannot supersede the demand of ever-growing spread of pandemic Covid-19. The Sindh Government has already taken steps and are monitoring it periodically under the umbrella of Sindh Epidemic Diseases Act, 2014. Section 3 of ibid Act enables the government to take strict measures as they deem fit and proper in case the provincial government feels the necessity of enforcing prescribed measures to curb the threatened situation.

This Covid-19 is exceeding and spreading for a number of reasons that it is new virus meaning that no one has immunity for this virus. It is highly contagious, meaning it spreads fast. Its novelty meaning scientists are still not completely sure as to how it behaves since it is changing its form and producing different variants and since they have a very limited history to go on. It is being reported worldwide that Covid-19 will have its short medium and long term effects for general population, health care workers, patients and other citizens. As our general responsibility we need to think ahead of ourselves and think beyond and stop being selfish, not only for our survival but for the survival of our population. The only way is to support the health care system.”

We do not see that the case of the petitioner is different from any angle whatsoever than the one this Court heard and decided earlier, as reproduced above and consequently the petition was dismissed along with listed applications with cost of Rs.25,000/- to be deposited in High Court Clinic in two weeks, in terms of short order dated 04.10.2021 of which these are the reasons.

Dated: 05.10.2021

Judge

Judge