

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

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

C.P. No.D-4604 of 2021

Sohail Hameed
Versus
Federation of Pakistan & others

Date	Order with signature of Judge
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Dated of hearing: 30.07.2021

Petitioner Mr. Sohail Hameed present in person.

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Muhammad Shafi Siddiqui, J.- Petitioner claiming himself to be a practicing advocate of this Court has filed this petition with the following prayers:-

- a) Declare that the act of the Respondents to treat the free citizens of Pakistan as “Subject” and to arbitrarily impose the condition of vaccination card mandatory for domestic travel, etc. without an Act being in violation of Article 4(2)(c) of the Constitution of Pakistan, which inter alia, provides that “No Person shall be compelled to do that which the law does not require him to do” and thereby amounts to excesses, harassment and transgression of Respondents Executive Authorities and being in violation of Article 2-A and Article 4(1)(2)(b) of the Constitution of Pakistan and Article 9 of the Constitution of Pakistan, viz. Dignity of the Citizens of Pakistan, and therefore, without lawful authority, void and of no legal effect.
- b) Restrain the Respondents from violating Order of Pakistan as enshrined in the Objective Resolution, Article 2-A of the Constitution of Pakistan and treating the free citizen of Pakistan as “subject” and to arbitrarily impose the condition of vaccination card mandatory for domestic travel, etc. without an Act being in violation of Article 4(2)(c) of the Constitution of Pakistan, which inter alia, provides that “No Person shall be compelled to do that which the law does not require him to do” and thereby amounts to excesses, harassment and transgression of their Executive Authorities and in violation of Article 4(1)(2)(b) of the Constitution of Pakistan and Article 9 of the Constitution of Pakistan, viz. Dignity of the Citizens of

Pakistan, and therefore, without lawful authority, void and of no legal effect.

- c) Suspend the mandatory condition of vaccination card for travel, etc. illegally imposed by the Respondents as being in violation of Article 2-A of the Constitution of Pakistan and treating the free citizen of Pakistan as “subject” and being in violation of Article 4(2)(c) of the Constitution of Pakistan, which inter alia, provides that “No Person shall be compelled to do that which the law does not require him to do” and thereby amounts to excesses, harassment and transgression of their Executive Authorities and in violation of Article 4(1)(2)(b) of the Constitution of Pakistan and Article 9 of the Constitution of Pakistan, viz. Dignity of the Citizens of Pakistan, and therefore, without lawful authority, void and of no legal effect.”

Though we heard the petitioner counsel but found no material available on record.

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.

In view of above, we dismissed this petition in Court by a short order dated 30.7.2021 and these are reasons for the same. Cost be deposited in the High Court Clinic in a week's time failing whereof the matter be fixed in Court for appropriate orders.

Dated: 31.07.2021

Judge

Judge