

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

Before:

Mr. Justice Ahmed Ali M. Shaikh, CJ  
Mr. Justice Yousuf Ali Sayeed

CP No.D-4738 of 2021

1. For orders on Misc. No.20357/2021 (urgent)
2. For orders on Misc. No.20358/2021 (exemption)
3. For orders on CMA No.20359/2021 (stay)
4. For hearing of main case

15.09.2021

Mr. Rehman Ghous, Advocate for the petitioners.

**AHMED ALI M. SHAIKH, CJ.**- Petitioners, Christians by faith, by invoking the Constitutional Jurisdiction of this Court seek following relief(s):-

“I. Declare that any interference by the Respondents No.1, 2 and 3 into the affairs of the Respondent No.4 adverse to the legitimate interests of the Respondent No.4 and the Christian Community at large and any interference in and usurpation of communal properties, management and assets thereof by the Respondents No.1, 2 and 3, is an infringement and violation of Articles 20, 23, 24, 27 and 36 of the Constitution.

II. Declare that any use of the office of the Advocate General Sindh by the Respondent No.1 to effect appearance in litigation in which the Respondent No.1 bears personal interest to fulfil partisan motives is a violation of Article 140 of the Constitution.

III. Declare that the failure of the Respondents No.2 and 3 to scrutinize the lawful and unconstitutional actions of the Respondent No.1 is a failure of their duty envisioned under Article 140 of the Constitution.

IV. Appoint and Directa (sic) retired Judge, of either the Honorable Supreme Court or High Courts, to initiate an impartial inquiry into the nefarious activities of the Respondent No.1 of misusing the office of the Advocate General Sindh, under the garb of which office the Respondent No.1 has been acting (sic) as a partisan of a select group of individuals and has been facilitating them in litigation against the Respondent No.1; whilst also take appropriate action against any other individual, including not limited to officials of the Government of Sindh, found complicit in the above activities.

V. Permanently and during pendency of this Petition, restrain the Respondent No.1 from personally appearing in any litigation qua affairs of the Respondent No.4.

VI. Direct the Respondents No.2 and 3 to appointment any other competent and impartial Law Officer(s) to make representation, where required, in the pending and future litigation before this Honorable Court involving the Respondent No.4.

VII. Restrain the Respondents No.1-3, their agents/subordinates, jointly and severally, from interfering in the affairs of the Respondent No.4 Church, including but not limited to the Elections of the Bishop of Karachi Diocese.

VIII. Restrain the Respondents No.1-3 from taking any adverse action in retaliation and vendetta against the Petitioners who have bona-fide approached this Honorable Court *pro-bono publico* to safeguard the legitimate interest of the Christian community and the Respondent No.4 Church. Further Restrain the Respondents No.1-3 from taking any adverse action in retaliation and vendetta against the Respondent No.4 Church and its Clergy.

IX. Any other relief which this Honorable Court may deem fit and proper.”

2. From the pleadings it appears that the Petitioner No.1 is an academician, Petitioner No.2 a senior Clergyman and a candidate for the seat of Bishop of Karachi Diocese and Petitioners No.3 to 5 are laymen of the Church of Pakistan. It is further pleaded in the memo of Petition that it largely pertains to the affairs of Diocese of Karachi, whose Bishop Mr. Sadiq Daniel was to retire on 04.12.2020.

3. Respondent No.1, the incumbent Advocate General, Sindh, filed Suit No.1065 of 2020 against Sadiq Daniel (the “**Bishop**”) and another in terms of Section 92 of the CPC. The said Suit alongwith Suits No.1647 of 2017, 20 of 2018 and 1160 & 1316 of 2020 was heard and decided by a learned Single Judge vide Judgment dated 16.11.2020 and, inter alia, the Bishop was directed to vacate the official residence within fifteen days. Against the said Judgment High Court Appeals No.217, 220 and 232 of 2020, and 05 of 2021 were preferred, in which present the Petitioners and Respondent No.1 are also party.

4. The Petitioners also praised the Respondent No.1 for adopting the aforesaid recourse. They however alleged that he made submissions which were contrary to the legislation, practice and history of the Church of Pakistan, in particular the rules for the Election of a Bishop. Accordingly, Appeals were filed against the said Judgment of the learned single Judge, which are pending adjudication.

5. The Petitioners claimed that the Respondent No.1, during hearing of HCA No.217 of 2020 filed by the Bishop has astonishingly given no objection allowing him to occupy the official residence till decision of the Appeal. The Petitioners further alleged that the Respondent No.1 has also wrongly submitted that the *functus officio* officials of the Synod

(comprising of eight Diocese, including of Karachi) were legally operational and could conduct the elections of vacant seat of Bishop of Karachi Diocese within thirty days; and that no elections of Synod could be conducted without first electing a Bishop of Karachi Diocese. They further averred that the member of Karachi Diocesan Council and its Executive Committee appointed during the tenure of the Bishop are attempting to illegally usurp and alienate the Christian Heritage i.e. Plot No.247, Staff Lines, Fatima Jinnah Road, Karachi, where a Girls Hostel and Darul Khushnud, a rehabilitation centre for physically and mentally disabled children, have been functioning. It is alleged that the Petitioner No.3 and others approached the Respondent No.1 seeking permission in terms of Section 92 CPC for audit of the accounts of Karachi Diocese and its allied institutions, he however supported the Bishop and refused to entertain their plea. Therefore, the Petitioners No. 3 to 5 acting as pro-bono public filed Suit No.38 of 2021 in which injunctive orders regarding properties of Karachi Diocese are operating.

6. It is alleged that the Respondent No.1 is also attempting to support the election of Mr. Fredrick John, close associate of the Bishop and whose qualification has been questioned in Suit No.293 of 2021. Additionally, it is pleaded that the leaders of the Church of Pakistan unanimously agreed to hold the Synod, delayed due to alleged misrepresentation of the Respondent No.1 and in the 16<sup>th</sup> Triennial Synod Meeting held on 13.05.2021 overdue elections of the officers of the Synod were conducted removing the officers appointed by the Bishop, however, the officers of the Karachi Diocese are still holding their unconstitutional offices. Accordingly, Suit No.906 of 2021 has also been filed.

7. Learned counsel for the petitioners submitted that the Respondent No.1 is illegally supporting the cohorts of the Bishop solely to oust the Petitioner No.2 from the seat of Bishop of Karachi Diocese and his illegal action and support resulted into multiplicity of litigations. He further submitted that the Respondent No.1 is illegally supporting Mr. Khurram Iqbal, Advocate, the then Secretary of the Karachi Diocese, who has a chequered history of being involved in criminal activities. According to him as the Christian Community vociferously raised voice against the above illegalities and wrongdoings, but the Respondent No.1 using his official capacity is threatening and harassing the Church Leadership. He

highlighted that sitting MPA Mr. Anthony Naveed, also member of Provincial Government, has been actively campaigning for Mr. Fredrick John, just to manipulate the affairs of the Church of Pakistan.

8. Learned counsel further submitted that the Respondent No.1 in sheer violation of professional etiquettes and norms attempting to protect the cohorts of the Bishop, who has been given clean chit by him to occupy the official residence in terms of the injunctive orders passed in the Appeal No.217 of 2020, filed by the Bishop against him and another. He submitted that on account of involvement of the Respondent No.1 and his appearance in each and every case being filed by the Christian Community regarding affairs of the Church of Pakistan, in the given circumstances, amounts to denial of their fundamental right of fair trial in terms of Article 10-A of the Constitution besides infringement of rights as guaranteed in Articles 23, 24 and 27 of the Constitution. He inter alia prayed for a declaration from this Court that use of the office of the Advocate General, Sindh by the Respondent No.1 and effecting his appearance in the matters of his interests/affairs of the Church of Pakistan is violative of Article 140 of the Constitution.

9. We have heard the learned counsel for the Petitioners and with his able assistance have perused the material available on record. From the documents available on the record it appears that multifarious litigations involving the Church of Pakistan, the Bishop, the Elections of the Karachi Diocese and application and or effect of the Constitution of the Church of Pakistan, etc are already either subjudice before this Court in the shape of suits pending on the Original Side or Appeals ensuing from other suits that already stand decreed, in which orders either with regard to Elections for the seat of Bishop of Karachi Diocese or properties relating to the Karachi Diocese and its allied institution or the affairs of the Church of Pakistan are also operating. However, nothing concrete has been brought to the fore through this Petition to support the contention that the Respondent No.1 is acting contrary to his constitutional obligations as envisaged under Article 140 and the backdrop of pending litigation also does not bring anything glaring to the fore in that regard. Needless to say, mere assertion to that effect does not suffice. Furthermore, on query posed as to what fundamental right(s) of the petitioners had been violated in the matter, Article 20 of the Constitution which safeguards right of a citizen to profess, practice and propagate his

religion and establish, maintain and manage its institutions was cited. However, no plausible argument was advanced as to how such rights of the petitioners stood violated in the given circumstances of the case. We have also noticed that in some of the pending Suits/Appeals, the present petitioners are also parties. Hence, they may raise any point of relevance as they seek to advance through these proceedings in such pending cases.

In view of foregoing circumstances, petition is found to be bereft of force and stands dismissed accordingly.

Judge

Chief Justice