

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

C.P No. D-7617 of 2022

Present:

Ahmed Ali M. Shaikh, CJ
and Yousuf Ali Sayeed, J

Imtiaz Ali Mirjat and another.....Petitioners

Versus

Government of Sindh and others.....Respondents

Petitioner No.1 Imtiaz Ali Mirjat, Advocate, in person.

Date of hearing : 13.12.2022

ORDER

YOUSUF ALI SAYEED, J. - The Petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution, seeking that the Respondents, being the functionaries of the Provincial Government concerned with the subject of education, be directed to amend the curriculum of Primary, Secondary and Higher Secondary/College Education so as to make the teaching of the Holy Quran in Arabic along with its translation in Urdu mandatory in all schools and colleges.

2. Proceeding with his submissions, the Petitioner No.1, who appeared in person as well as on behalf of the Petitioner No.2, presented no argument as to how the present curriculum offended any law or fundamental right, but merely argued that acquiring knowledge of the sacred text was the obligation of every Muslim and that such teaching in educational institutions would strengthen the moral fabric of society.

3. Be that as it may, it bears equal consideration that our Constitution is founded on the theory of trichotomy of power between the three limbs/organs of the State, namely, the Legislature, the Executive and the Judiciary, and it is not the function of this Court to dictate the content of the curriculum to be followed in the province under the given circumstances, in the absence of any violation of law or fundamental rights.

4. Furthermore, in our view, matters of faith are personal and are even otherwise best left to the individual. Indeed, in the case reported as Province of Sindh through Chief Secretary and others versus M.Q.M through Deputy Convener and others PLD 2014 Supreme Court 531, it was observed by the Honourable Supreme Court that:

“43. Human rights law makes a distinction between positive and negative rights, wherein positive rights usually oblige action and negative rights usually oblige inaction. Similarly, many of the fundamental rights granted by our Constitution pertain to both positive and *negative rights*. The holder of a negative right is entitled to non-interference, while the holder of a *positive right* is entitled to provision of some good or service.

44. Negative rights place a duty on the state not to interfere in certain areas where individuals have rights. The right holder can thereby exercise his right to act a certain way or not to act a certain way and can exercise his or her freedom of choice within the existing right. For instance, the freedom to profess religion and to manage religious institutions (Article 20) encases the right to both profess a certain religion and not to do so. It also places a duty on the State not to interfere with the religious beliefs and ideologies of individuals. Similarly, the freedom of speech and expression (Article 19) encases the right of an individual to express his views and opinions and engage in dialogue without fear of misplaced sanctions and State intervention, but simultaneously possesses the right to remain silent. Negative rights extend to all civil and political rights and thereby also include the Freedom of Assembly and the Freedom of Association (Articles 16 and 17 respectively).”

5. As such, the Petition is found to be misconceived, hence while granting the application for urgency we accordingly dismiss the same *in limine* along with the other pending miscellaneous application.

JUDGE

CHIEF JUSTICE

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