



the material brought before him; that the parties were not heard by the learned Judge while deciding the revision application which is against the law.

4. Counsel for respondent No. 2 contended that the respondent No. 2 possesses all requisite documents to prove that he is the owner of the seized scrap and also produced two photocopies of Hub Weighbridge regarding weight which showed the number of vehicles; as such the impugned order does not require any interference and was well-reasoned.

5. Learned Addl. P.G Sindh conceded to the fact that the applicant and other involved parties whose rights were affected by the order were condemned unheard.

6. Without entering into the merits of the case or assessing the contentions of respondent No. 2 thereon, it is observed that the impugned order suffers from a severe illegality as it is against the principles of natural justice; going against the maxim *audi alteram partem*, i.e., no one is to be condemned unheard (right to be heard). This principle is part of a larger concept; *Fair Trial*. The right to a fair trial is enshrined in all important human rights declarations, from the Great Charter of England (1215) to the French Declaration of Human Rights and Citizenship (1789), the Declaration of Human Rights and even our Constitution.<sup>1</sup> In his landmark judgment in *Kanada v. Government of Malaya*,<sup>2</sup> Lord Denning spoke on this fundamental principle of natural justice and opined that this right is hollow unless every party knows the evidence, understands the accusations, and have a chance to challenge them. He further observed that no judge can wield the scales of justice while holding secret *ex parte* communications on one side.<sup>3</sup> Justice must be blind, balanced, and accessible to all those who stand before it. A party is not to suffer in person or in purse without an opportunity of being heard. The law and procedure must be of a fair, just and reasonable kind. The principle of natural justice comes into force when prejudice is caused to anyone in any administrative action.

7. For these reasons, the impugned order was set aside by short order dated 03.01.2024 and the matter was remanded back to the VIth

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<sup>1</sup> Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973

<sup>2</sup> (1962) AC 322.

<sup>3</sup> "If the right to be heard is to be a real right which is worth anything, it must carry with it a right in the accused man to know the case which is made against him. He must know what evidence is given and what statements have been made affecting him; and then he must be given a fair opportunity to correct or contradict them...It follows, of course, that the Judge or whoever has to adjudicate must not hear evidence or receive representations from one side behind the back of the other."

Additional District and Sessions Judge Karachi-West to provide an opportunity of hearing to all the parties involved.

Judge

KARACHI  
04 January 2024