

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No.D-5101 of 2024

Muhammad Ghulam Rehman Korai and another
Versus
Federation of Pakistan and others

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present: -
Mr. Justice Muhammad Shafi Siddiqui, CJ &
Mr. Justice Jawad Akbar Sarwana, J

Fresh Case

1. For orders on Misc. No.22570/2024 (Urgent/App).
2. For orders on Misc. No.22571/2024 (Exemption/App).
3. For orders on Misc. No.22572/2024 (Stay/App).
4. For hearing of main case.

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Dated 14.10.2024

M/s. Ebrahim Saifuddin and Tahir Mehmood, Advocates along with
petitioners.

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Muhammad Shafi Siddiqui, CJ.- Two petitioners claimed to be practicing advocates have filed this petition to restrain the Federal Cabinet from approving the proposed amendment in the Constitution that is 26th Constitutional Amendment. It also seeks that the government to make final draft of the proposed amendment and should be shared with the public for a debate for at least 60 days.

2. Learned counsel has attempted to assist us in this regard; however, he has miserably failed. He has not brought the recent judgment that was in respect of Practice and Procedure Act, 2023 wherein a question to challenge proposed legislation was taken up and in terms of para-31 of the said judgment, the Supreme Court has observed as under:-

“.....Mutual respect requires that the Supreme Court should not substitute its own opinion for that of Parliament, no matter how correct it considers it to be. Interventions should be restricted to only when Parliament enacts legislation which is demonstrably unconstitutional. In respect of the Act this has not been demonstrated.” Underlining is for emphasis.

3. Learned counsel is further unable to articulate as to which article would compel the cabinet to share the proposed draft with the Bar Councils and Bar Associations; he then submits that it should at least share it with the public at large so that the fair comments be made.

4. We are afraid that the representatives of the public are sitting in the National Assembly/ Senate with their voice. We have not been able to articulate the proposition of the petitioners that the proposed amendments be made available to public as we do not find any article in support thereof. Legislative procedure is provided in Articles-70 to 77 and the submissions are devoid of such frame. The courts have been restrained from interfering in such matters and in particular in respect of the issue of legislation (competence of which otherwise is not denied), unless it is seen to be demonstrably unconstitutional. Since it has not yet been surfaced as an Act of the Parliament, the process of adjudging it either constitutional or unconstitutional cannot be triggered.

5. With this understanding of law, the petition merits no consideration and is dismissed along with listed applications.

CHIEF JUSTICE

JUDGE

Ayaz Gul