

PSUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Gulzar Ahmed, CJ
Mr. Justice Mushir Alam
Mr. Justice Sardar Tariq Masood
Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Qazi Muhammad Amin Ahmed

S.M.C. 01/ 2020

(SUO MOTO ACTION REGARDING COMBATING THE PANDEMIC OF CORONA VIRUS
(COVID -19))

IN ATTENDANCE:

- For the Federation : Mr. Khalid Javed Khan,
Attorney General for Pakistan
(via video Link from Karachi Branch)
Mr. Sohail Mehmood, DAG
Dr. Tanveer Qureshi,
Secretary M/o National Health
Asif Suhail, Director (Lit)
G.M. Jakhrani, Dy. Director (Lit)
Saeed Ullah Khan Niazi, JS Admn.
(All from M/o National Health)
- Mirza Mahsood, J.S. M/o Interior
Shams-ur-Rasool SO Interior.
Syed Mansoor H. Gardezi, Dir. Legal
Advisor, Pakistan Bait-ul-Mal.
Muhammad Idrees Mahsood, Member
(Admn & Finance), NDMA.
Zafar Iqbal, Dir. Legal NDMA.
- For ICT : Mr. Niaz Ullah Khan Niazi,
A.G., Islamabad
Shafaq Hashmi, DG ICT.
Amir Naveed, ADC ICT.
Waseem Khan, ADC ICT.
Azhar Hussain Shah, DSP Legal.
- For Govt. of Punjab : Mr. Shan Gul, Acting A.G., Punjab
Ch. Faisal Fareed, Addl. AG Pb.
Cap (R) M. Usman, Secy. Primary &
Secondary Health Deptt. Punjab.
Khurram Abbas, Law Officer.
M. Nabeel Ahmed Awan,
Secy. Specialized, Health Care &
Medical Education Deptt.
Zeshan Rana, Addl. Secy. (Prisons).
Saifullah Gondal, Dy. Secy. Zakat and
Usher.
Muhammad Aslam Ramy,
Administrator Zakat and Usher.

- For Govt. of Sindh : Mr. Salman Talibudin, A.G, Sindh
Mumtaz Ali Shah, Chief Secy. Sindh.
Muhammad Usman Chachar,
Addl. Chief Secy. Home.
Dr. Saeed Ahmed Qureshi,
(Focal Person to Chief Secy. Sindh)
Zahid Abbasi, Secy. Health
Qazi Shahid Pervez, SMBR
Iftikhar Shalwani, Commissioner Kcy.
Altaf Bijrani, Spl. Secy. Zakat &
Usher.
Rasheed Ahmed Solangi, Secy. Labour
Deptt.
(All via Video link from Karachi Branch)
Muhammad Kassim Mirjat AOR
(At Islamabad)
- For Govt. of KP : Mr. Shumail Butt, A.G. KP
Mr. Atif Ali Khan, Addl. AG.
Syed Imtaiz Hussain Shah,
Secy. Health, KP
M. Abid Majeed,
Secy. Relief Rehabilitation, KP
Dr. Maqsood Ali, Chief Executive,
HCC.
Dr. Khalid Masood, Director (LRH).
Khyal Muhammad Mohmand, Legal
Officer (LRH)
(All via Video link from Peshawar Branch)
- For Govt. of
Balochistan : Mr. Arbab Muhammad Tahir,
A.G, Balochistan.
Baloch Aziz, Secy. Religious Affairs.
Dr. Saleem Abro, DG Health.
(Via Video link from Quetta Branch)
Mr. Ayaz Khan Swati, Addl.A.G.
Mr. M. Fareed Dogar,
AAG Balochistan. (At Islamabad)
- For Govt. of GB : Mr. Muhammad Iqbal, AG, G.B.

Syed Iqbal Hashmi, ASC for PMA.

Mr. Samuel Payara,
Chairman, Implementation of Minority
Rights Forum
- Date of Hearing : 18.05.2020.

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ORDER

Gulzar Ahmed, CJ: We have heard the learned Attorney General for Pakistan, the learned Advocates General for all the four Provinces as well as Islamabad Capital Territory (ICT) and Gilgit Baltistan.

2. A report has been submitted by the National Health Services and Research Centre (NHSRC) by way of CMA No. 3096 of 2020. With this report, minutes of meeting of the National Coordination Committee on Covid-19, held on 07.05.2020, under the Chairmanship of the Prime Minister of Pakistan, are attached. The decision taken in the said meeting has been noted down in para-4. For the purpose of present, we note that Items No. 2 to 5 thereof deals *inter alia* with shopping malls, small community markets in urban and rural areas, and decision to close down such shops and business on Saturday and Sunday.

3. The learned Advocate General for ICT states that all shops and markets in the ICT have been allowed to open and the shopping malls, namely, Giga Mall, Centaurs Mall and Safa Gold Mall, have also been allowed to open today.

4. The learned acting Advocate General, Punjab has stated that all shops and markets have been allowed to open in whole of the Punjab and with the permission of NHSRC, the shopping malls in all over Punjab will be allowed to open today.

5. The learned Advocate Generals KPK, Balochistan and Gilgit Baltistan have also made a statement before the court that all shops and markets in these areas have been allowed to open. They have all stated that SOPs regarding Coronavirus (COVID-19) will however, be maintained and the respective governments will ensure that such is done.

6. As regards the Province of Sindh, learned Advocate General has stated that all shops and markets have been allowed to open in whole of the Province but shopping malls have not been allowed to open. We have asked the reason as to why the shopping malls have not been allowed to open, the learned Advocate General has relied upon the minutes of meeting of 07.05.2020 and has contended that regarding shopping malls, review of such decision will be made before 31.05.2020 and therefore, the Sindh Government is not allowing of the opening of shopping malls.

7. We note that all the shopping malls in the ICT, Punjab will be opened today and so far the KPK, Balochistan and Gilgit Baltistan are concerned, it is stated by their respective Advocate Generals that they don't have any shopping malls but shops and markets, have been allowed to open and they are doing business.

8. The learned acting Advocate General, Punjab has stated that the Punjab Government has approached NHSRC for obtaining the approval for opening of the shopping malls and similar has been done in the ICT and both Punjab and ICT, are likely to get permission for opening of the shopping malls today.

9. If such can be done by the biggest province of Pakistan i.e. Punjab, why the similar cannot be done by the Province of Sindh and apparently, we find no valid reason or justification for the same.

10. In the circumstances, we direct the Government of Sindh to apply to the NHSRC today, for seeking approval for opening of shopping malls in the Province of Sindh. We expect that after such application is made, the NHSRC shall give their decision today and if their decision is that shopping malls are allowed to open, the respective Provincial Government shall allow the shopping malls to be open and shall not

create any hindrance or obstruction in this regard but ensure that SOPs are followed.

11. The other aspect which requires to be dealt with is about closure of shops, markets and business on Saturday and Sunday by way of a complete lock down. We do not find any justifiable rational or reasonable classification on the basis of which these two days are excluded from doing business, for that, all days of the week are the same. It is for the convenience of the human beings that the days have been given names, otherwise there is no distinction between others days of the week from Saturday and Sunday. We therefore find that this restriction put in the minutes of meeting dated 07.05.2020 is contrary to Articles 4, 18 and 25 of the Constitution of the Islamic Republic of Pakistan and thus, is declared to be illegal and accordingly set aside. The businessmen shall be allowed to do their business on all days, which is permissible under the law, subject to enforcement of SOPs.

12. We may caution the Government of Pakistan so also the Governments of all the four Provinces, ICT and G.B. that looking at the past history of Pakistan, where business activities of private entrepreneurs was interfered with by the Government, such entrepreneurs lost faith in the system and packed up and moved to some other destinations in the world, where they consider their investment to be more safe and profitable. If the businesses and industries remain closed for a long time, their revival becomes doubtful, more and more, and in case they are not revived, millions of workers will be on streets and the Government may be faced with a human disaster and calamity of such a magnitude that to overcome it, may become next to impossible.

13. So far the report of NDMA is concerned, we are not at all satisfied with such report and would like to hear the learned Attorney General for Pakistan on this report as well as the security officials of

NDMA, for that, we find no reason why so much money is being spent on this Coronavirus (COVID-19), for that, Pakistan is not the country which is seriously affected by it. There are other serious ailments prevailing in the country, from which people are dying daily and those ailments are not being catered and the Coronavirus (COVID-19), which apparently is not a pandemic in Pakistan, is swallowing so huge money.

14. The Secretary, Ministry of Health has stated that over the years in the ICT almost one thousand people die only on account of pollen allergy. Besides, we note that thousands of people die on account of brain haemorrhage, cardiac failure, Hepatitis, Dengue, kidney failure, liver failure, pulmonary and other related ailments and all these deaths goes in hundreds of thousands every year.

15. We are not suggesting by any means that the governments should not attend to Coronavirus but we expect that the governments should not put all its resources for this one disease, nor the country should be made all together dysfunctional, because of this disease, for its consequences will be highly detrimental to the people of Pakistan, and the Federal Government and all Provincial Governments should address itself on this point.

16. Adjourned for tomorrow at 11:30 a.m.

CHIEF JUSTICE

JUDGE

JUDGE

JUDGE

JUDGE

Bench-I
ISLAMABAD
18.05.2020
Atif*