

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

PRESENT: MR. JUSTICE MIAN SAQIB NISAR, H.C.J.  
MR. JUSTICE UMAR ATA BANDIAL  
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITIONS NO.4279 AND 4280 OF 2017 AND CIVIL MISC.  
APPLICATION NO.8442 OF 2017 IN CIVIL PETITION NO.NIL OF 2017  
(Against the judgment dated 7.9.2017 of the High Court Sindh, Karachi  
passed in C.Ps No D-131/2017 and 7097/2016)

1. Province of Sindh through Chief Secretary, Government of Sindh, Karachi and another  
Vs. Shehn-Citizens for a better Environment (CBE) through its authorized person, Karachi etc. In C.P.4279/2017
2. Province of Sindh through Chief secretary, Government of Sindh, Karachi and another  
Vs. Karamat Ali etc. In C.P 4280/2017
3. Azhar Ali Farooqi etc Vs. Federation of Pakistan through Secretary Ministry of Interior etc. In C.M.A.8442/2017

For the petitioner(s): Mr. Farooq H. Naek, Sr. ASC  
Mr. Zamir Hussain Ghumro, A.D. Sindh  
Syed Rifaqat Hussain Shah, AOR  
(In C.Ps.4279 & 4280/2017)

Mr. Mukhdoom Ali Khan, Sr. ASC  
(In C.M.A.8442/2017 In C.P.NIL/2017)

For the respondent(s): Mr. Faisal Siddiqui, ASC  
Mr. Mehmood A. Sheikh, AOR  
(In C.Ps.4279 & 4280/2017)

Date of hearing: 18.1.2018

ORDER


MIAN SAQIB NISAR, C.J.-

C.Ps.No,4279 & 4280/2017;

Leave is granted in these cases to consider as to whether:-

- (1) Relief granted beyond prayer is illegal;
- (2) Restraint on Legislature is illegal;

ATTESTED


  
Court Secretary  
Supreme Court of Pakistan  
Islamabad

- (4) Inclusion of Federal Government in appointments of Provincial Police Officers is illegal,
- (4) Directions to make Rules in presence of valid Laws and Rules are illegal,
- (5) Directions as to the tenure of Current Provincial Police Officer are illegal;
- (6) Wrong Model of Interpretation Adopted;
- (7) Breach of Provincial Autonomy is against spirit of the 18<sup>th</sup> Amendment of the Constitution of Pakistan, 1973 (*the Constitution*);
- (8) The petitions were barred and not maintainable in view of Article 8(3) of the Constitution;
- (9) Discrimination has been made amongst Provinces in matter of Superintendence, Appointment, Posting and Transfer of Police;
- (10) The petition before the High Court was barred under Article 184(1) of the Constitution 1973; and
- (11) The terms and conditions of services were camouflaged to circumvent bar under Article 212 of the Constitution, 1973.

2 In the meantime, Mr. A.D. Khawaja, Inspector General of Police, Sindh (*IG, Sindh*) shall not be removed even if the Federal Government has consented thereto. All the transfers and postings of the police personnel in Sindh which are to be made by the IG, Sindh shall be done strictly in accordance with law and the Provincial Government has no role thereto.

**C.M.A.No.8442/2017 in C.P.No.Nil/2017;**

3 After hearing the learned counsel for the applicants, we find that the case falls within the purview of the judgment reported as H.M.

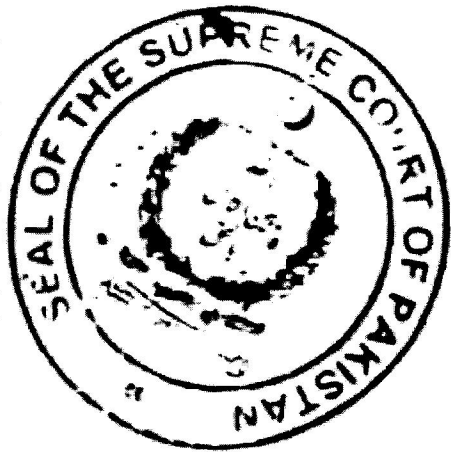
**ATTESTED**  
  
**Court Associate  
Supreme Court of Pakistan  
Islamabad**

Saya & Co., Karachi Vs. Wazir Ali Industries Ltd., Karachi and another (PLD 1969 SC 65), therefore, this application is allowed and the office is directed to number the main petition.

4. As leave has been granted in the connected matters, therefore, leave is also granted in this case additionally to consider whether: -

- (1) The legislative competence over the field of "police" is within the exclusive domain of the Federation, the Provinces or both; and
- (2) The Sindh (Repeal of the Police Order, 2002 and Revival of the Police Act, 1861) Act, 2011 is *ultra vires* the Constitution, 1973.

5. Re-list these matters in the 2<sup>nd</sup> week of February, 2018.



Sd/- Mian Saqib Nisar, HCJ  
Sd/- Umar Ata Bandial, J  
Sd/- Ijaz ul Ahsan, J

Certified to be True Copy

7/25/18  
CMM Associate  
Supreme Court of Pakistan  
Islamabad

Islamabad, the  
18<sup>th</sup> of January, 2018  
Not Approved For Reporting

24/1/18

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