

IN THE HONOURABLE HIGH COURT OF SINDH AT KARACHI
(CONSTITUTIONAL JURISDICTION)

Constitution Petition No. 0-6780 of 2019

Presented on 23.10.19

[Signature]
Additional Registrar (Wri.)
g/c

1. Muhammad Jibran Nasir,
Son of Nasir Azhar Siddiqui,
Muslim, Adult,
Resident of 9/E, Askari 3,
School Road, Cantt,
Karachi

2. Javed Iqbal Burki,
Son of (Late) Muhammad Deen,
Muslim, Adult,
Resident/Office at Panorama,
Centre No. 2, 3rd Floor, 316,
Raja Ghazanfur Ali Khan Road,
Saddar, Karachi

3. Pakistan Institute of Labour,
Education & Research,
Registered as an Association under Section 42,
Companies Ordinance, 1984,
Through its authorized person,
Having its registered office at PILER Centre,
ST-001, Sector X, Sub-Sector V,
Gulshan-e-Maymar,
Karachi-75340.....Petitioners

Versus

1. Province of Sindh,
Through the Chief Secretary,
Government of Sindh,
Sindh Secretariat, Karachi

2. Province of Sindh,
Through Prosecutor General,
Department of Law,
New Sindh Secretariat,
Shahrah- e – Kamal Ata Turk Road,
Karachi

3. Province of Sindh,
Through the Home Secretary,
Sindh Secretariat,
Karachi



I.G. Sindh
Sindh Police
Police Head Office,
I.I. Chundrigar Road,
Karachi

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5. I.G. Prisons
Central Jail,
University Road,
Karachi.....Respondents

CONSTITUTIONAL PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973



ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No.D-6780 of 2019



Date _____ Order with signature of Judge _____

1. For hearing of Misc. No.30114/2019.
2. For hearing of Main Case.

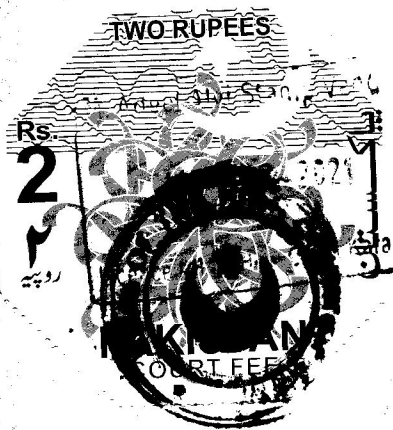
13.04.2021

Mr. Mohamed Vawda, Advocate for the Petitioner.
Mr. Muhammad Iqbal Awan, Deputy Prosecutor General, Sindh
along with Deputy Superintendent Central Jail, Karachi/Jan
Muhammad and Assistant Superintendent, Central Jail
Karachi/Muhammd Iqbal.
Ch. Waseem Akhtar, Assistant Attorney General for Pakistan.

Apparently, this is public interest litigation. We doubt that this petition is maintainable before the High Court as the proper forum to be approached would be the Honourable Supreme Court of Pakistan under Article 184(3) of the Constitution.

The prayer clauses of the petitioners are set out below for the ease of reference;_

- (a) Declare that all Under Trial Prisoners are entitled to a speedy trial in accordance with Article 10-A, Constitution, 1973.
- (b) Declare that Under Trial Prisoners who have spent periods longer than their maximum terms for the offences charged (if convicted for the offences charged) should be released by the trial court, on specified terms and conditions of bail/bond during the pendency of their trial, except dangerous and hardened criminals.
- (c) Direct all the criminal courts under the jurisdiction of this Honourable Court to submit a report of all Under Trial Prisoners who have spent periods longer than their maximum terms for the offences charged (if convicted for the offences charged) to this Honourable Court for passing of appropriate orders on such report.
- (d) Declare that Under Trial Prisoners who have spent periods up to or more than 50% of the maximum terms for the offences charged (if convicted for the offences charged) should be released by the trial court, on specified terms and conditions of bail/bond during the pendency of their trial, except dangerous and hardened criminals.
- (e) Direct all the criminal courts under the jurisdiction of this Honourable Court to submit a report of all Under Trial Prisoners who have spent periods up to or more than 50% of the maximum terms for the offences charged (if convicted for the offences charged) to this Honourable Court for passing of appropriate orders on such report.



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- (f) Direct all the criminal courts under the jurisdiction of this Honourable Court to submit a report of all Under Trial Prisoners, whose criminal trials were initiated prior to the year 2010 and have still not concluded, to this Honourable Court for passing of appropriate orders on the basis of such report, for expeditious and priority conclusion of such old cases.
- (g) Direct the Respondents No. 1, 2, 3, 4 and 5 to form a Joint Commission to conduct a comprehensive and up to date survey of all prison facilities, particularly with respect to over-crowding, hygiene, medical, nutritional, recreational and vocational facilities, and submit the same to this Honourable Court for passing of appropriate orders.
- (h) Grant such further, additional or alternative relief, as this Honourable Court may deem fit and proper.

It is already well-known that all under trial prisoners are entitled to expeditious trial and that in addition all prisoners who have been convicted for an offence, are entitled to have their appeals heard expeditiously. This is already provided under Article 10-A of the Constitution and hence no order needs to be ^{passed} in this respect.

With regard to prayer clause B, C, D & E we do not consider it appropriate for this Court to grant such blanket orders. If an under trial prisoner has served sentence longer than the sentence for which he could be convicted and his trial is still continuing then if his lawyer approached the concerned trial Court, he would most likely be granted bail. If such bail was declined then he could approach this Court. With regard to prayer clause F, this is covered under the right of expeditious trial already mentioned above. With regard to prayer clause G the petitioners are free to approach the Provincial Government Ministry of Prisons for the establishment of such commission.

The petition stands disposed of along with listed application(s) in the above terms.



Zulfiqar/PA

Sr Muhammad Karim Khan Agha
Judge

Sr Abdul Mubeen Latif
Judge