

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

W.P No.1372-M/2022

Taj Rasool.....Petitioner.

Versus

***Government of Khyber Pakhtunkhwa through Secretary Home
and Tribal Affairs Department and others.....Respondents.***

Present:

***Clerk of Mr. Aziz Ahmad Hashmi, Advocate for
Petitioner.***

***Mr. Raza Uddin Khan, A.A.G for official Respondents
alongwith Mr. Ihsanuddin SDFO (Litigation), Mr.
Umair Nawaz, SDFO Wari and Mr. Ayub Forester
Karo Block, Wari Range.***

Date of hearing:

14.12.2022.

JUDGMENT

MUHAMMAD NAEEM ANWAR, J.- Impugned herein is order dated 24.11.2022 of respondent No.2 i.e., District Magistrate/Deputy Commissioner, District Dir Upper issued u/s 3 of the West Pakistan Maintenance of the Public Order Ordinance, 1960 (hereinafter referred to as "MPO"), whereby the petitioner was ordered to be taken into custody and detained at Central Jail *Haripur* for a period of one month, on the allegations of his involvement in illicit cutting of precious forest trees and its smuggling by causing a huge loss to the public exchequer.

2. In view of the grounds taken by the Deputy Commissioner for issuance of the impugned order, we have directed the personal appearance of SDFO Wari Range, SDFO (litigation) and Forester of Karo Block, who are present before the Court. Learned A.A.G produced complete record, which reflects that the Deputy

Commissioner was requested by the Divisional Forest Officer through letter bearing endorsement No.2620-22/G dated 16.11.2022 regarding offence committed at Karo Block of Forest Range Wari dispatched vide No.2619/G by the present petitioner alongwith others pertaining to illicit cutting of the forest trees on the following grounds:

- 1) **The offenders are forcefully cut trees which will have bad effect on the environment of the area.**
- 2) **Being joint property, their act further motivates others to act illegally in cutting of forest in the area.**
- 3) **The offenders have involved themselves in illicit activity of deforestation.**
- 4) **They have inflicted irreparable damage and loss to the forest wealth and Nation kitty which in turn have destructed/degraded existing Eco-system of all living organisms.**
- 5) **They are acting in a manner which has become prejudicial to public safety and maintenance of peaceful atmosphere in Upper Dir Forest Division.**
- 6) **The offender at serial No. 1 has already been charged under 3MPO, and his arrest is yet to be materialized.**
- 7) **The offender namely Mr. Taj Rasool S/o Mintaj has given an affidavit to your good self-stated that he will never be involved in illicit cutting of forest in future, and if founded involved he is liable to be punished under the law accordingly.**

3. At the very outset, when SDFO *Wari*, District Dir Upper was questioned about the initiation of proceedings under the MPO against the present petitioner, he stated at the bar that for illicit cutting on part of the present petitioner, certain damage reports have also been issued, wherein he has been charged for violation of the relevant provisions of the Forest Ordinance, 2002, however, in some of the cases, he has been convicted and sentence on the plea of his guilt by the Forest Magistrate. He further submitted at the bar that when the order is passed by this Court in constitutional jurisdiction challenging therein the order issued by the competent authority under section 3 of MPO, ordinarily, the learned Forest Magistrates acquit the accused in the case pending before him. At