

Judgment Sheet

**IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT**

Suo Moto Writ Petition No. 878-P/2012.

JUDGMENT

Date of hearing.....**14.03.2013**.....

Date of Announcement _____

Petitioner. _____

Respondents. _____

DOST MUHAMMAD KHAN, C.J.- During the course of hearing of Cr.Misc. (BA) No. 223-P/2012, *Suo Moto* notice was taken of the fact that the CCPO i.e. Capital City Police Officer has exercised jurisdiction over different districts like Nowshera, Swabi & Charsadda, beyond the limits of the Capital City District of Peshawar, therefore, notice was given to the learned Advocate General to file his reply on behalf of the Home Ministry Government of Khyber Pakhtunkhwa, who accordingly filed the same.

It is interesting to note that challan in the case was also delayed much beyond the statutory period, which is the violation of Statutory Law; highly emphasized by the National Judicial Policy Making Committee (NJPMC) in

the recent past besides, very poor investigation was conducted.

2. In the comments, filed by the Secretary Home & Tribal Affairs Department, no exception was taken to the points, formulated by the Court, vis-à-vis jurisdiction of the CCPO beyond the district of Peshawar and even during the course of hearing / arguments, no serious challenge was thrown to the same on any ground whatsoever rather it was stated that the matter is left for the Court to decide and interpret provisions of the Police Order, 2002 particularly Section 11 (2) thereof which reads as follows: -

S.11. Posting of Provincial Police Officer, Capital City Police Officer and Head of Federal Law Enforcement Agency:-

(1).-----

(2). *The Federal Government in the case of Islamabad Capital Territory and the Provincial Government in the case of Capital City District shall post a police officer not below the rank of Additional Inspector General of Police as Capital City Police Officer out of three officers recommended by the National Public Safety Commission, or on the recommendation of*

the Provincial Police Officer, as the case may be.

3. Anomaly has been created by Section 13 of the Police Order, 2002 and for that reason the Provincial Home Department as well as the PPO / IGP both are probably acting under entire misconception because for the guidance of the IGP/ PPO or CCPO it is provided that for efficient performance of his duties, as it may deem fit, in consultation with the Provincial Police Officer or Capital City Police Officer, as the case may be, some Additional Inspectors General of Police may be posted / appointed.

4. Neither in the Police Order nor in the provisions of Local Government Ordinance, particularly, under sections 8 & 9 thereof, it is provided with little clarification that Capital City Police Officer shall have to exercise control, administer or manage the affairs of another District, beyond the limits of Peshawar Capital City / District.

5. It is well settled rather golden Rule of Construction of Statutes, attributed to Lord Wensleydale by Lord

Blackburn in the case of “River Wear Commissioner Vs.

Adamson” who stated that: -

“It is not disputed that the golden rule is the right criteria for construction of a particular statute because the Court has to take into consideration the whole Statute or there are more than one Statute then both should be taken together and construed it all giving the words their ordinary signification, unless when so applied they produce an inconsistency, or an absurdity or inconvenience so great as to convince the Court that the intention could not have been to use them in the ordinary signification, and to justify the Court in putting on them some other signification, which though less proper, is one which the Court thinks the words will bear”.

Another jurist Parke B; while referring to the case of “Grey Vs. Pearson” and while giving his opinion stated that: -

“I have been long and deeply impressed with the wisdom of the golden rule now, universally adopted, at least in the Courts of law and that while construing Statutes and other instruments, the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with

the rest of the instruments / Statute, in which case the same may be suitably modified to avoid the absurdity and inconsistency, making them workable.”

6. Keeping in view the historical background of the golden rule relating to the construction of Statute, now it has become the consistent practice of the superior Courts not to import into any Statute something omitted therefrom or to omit therefrom which is expressly provided therein and in case of absurdity it becomes the duty of the Court to clarify and explain the same in a reasonable manner, so that, the Statute is not rendered dead or inoperative but more workable and beneficial.

7. In the past for the last more than fifty (50) years history of the country and before the enactment of Police Order, 2002 it was an established system that every region had got its own D.I.G. This division of the upper hierarchy vis-à-vis their administrative control & jurisdiction was founded on objective view, so that, each region consisting of a District / Division is efficiently & effectively managed & administered by the police under him and the police of a

particular region is not controlled nor its administration is in the hands, located very remotely because that would adversely affect the entire engine of the police machinery with regard to its effective & efficient administrative, preventive & investigative control. It is next to impossible that one man, sitting in Peshawar District, would be able to control many other Districts because the day-to-day affairs, increase in crimes ratio, the complicated nature of crimes, and expansion of the police force considerably, it has become absolutely unmanageable to be controlled from a faraway place by a single man.

8. The provisions of Police Order, 2002 particularly Section 6 thereof, squarely & essentially requires that the Government shall maintain a separate Police Establishment for every general police area while Section 11 thereof further clarify this legal position.

9. Again Clause (i-a) of Section 2 of the Police Order, 2002 defines the Capital City District as follows: -

S.11 (i-a). "Capital City District" means the Islamabad City District, the Federal Capital; City District of Quetta, City District

of Peshawar, City District of Lahore or City District of Karachi being the metropolis of the Provinces of Balochistan, north-West Frontier (now Khyber Pakhtunkhwa), Province of Punjab and Sindh respectively;.”

10. In view of the above combined study of various provisions of different enactments, the Court is left with no alternative nor we feel any hesitation to hold that the Capital City Police Officer (CCPO) means a police officer to control, manage & administer the police force, its different wings & organization and may exercise such authority & jurisdiction to the extent of District of Peshawar and not at all beyond the limits of Revenue District of Peshawar, notified by the Provincial Government in the official gazette.

Accordingly, it is held that the CCPO shall have no authority whatsoever nor shall have any jurisdiction or powers to control, manage & administer the other Districts, adjoining Peshawar, and it is further held that his entire authority, jurisdiction / powers are confined to the District of Peshawar only while the rest of the Districts shall be

managed, controlled & administered by the D.I.G of the region and the District Police Officers, as the case may be.

The Provincial Government through Home Secretary is directed to issue a proper gazette notification strictly in accordance with the above view held by the Court within fifteen (15) days at the most.

Petition stands allowed in the above terms.

Announced:

CHIEF JUSTICE

J U D G E

*/*Saif*/*