

**IN THE SUPREME 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

**Suo Moto Case No. 01 of 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  
Mr. Sohail Mehmood, DAG  
Dr. Tanveer Qureshi,  
Secretary M/o National Health  
Asif Suhail, Director (Lit)  
*(All from M/o National Health)*
- Syed Mansoor H. Gardezi, Dir. Legal  
Advisor, Pakistan Bait-ul-Mal.  
Lt. Gen. Muhammad Afzal,  
Chairman, NDMA.
- For ICT : Mr. Niaz Ullah Khan Niazi,  
A.G., Islamabad  
Azhar Hussain Shah, DSP Legal.
- For Govt. of Punjab : Mr. Shan Gul, Acting A.G., Punjab  
Cap (R) M. Usman, Secy. Primary &  
Secondary Health Deptt. Punjab.  
*(both via video link from Lahore)*  
Ch. Faisal Fareed, Addl. A.G. Punjab  
M. Nabeel Ahmed Awan,  
Secy. Specialized, Health Care &  
Medical Education Deptt.  
Saifullah Gondal,  
Dy. Secretary, Zakat & Usher.  
Muhammad Aslam Ramay,  
Administrator Zakat & Usher.  
Alamgir Ahmed Khan,  
*(all via video link from Lahore)*
- For Govt. of Sindh : Mr. Salman Talibudin, A.G, 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 Kci.  
Haroon Ahmed Khan  
Addl. Chief Secretary, Zakat & Ushr  
*(All via Video link from Karachi Branch)*

For Govt. of KPK : 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.  
Muhammad Idrees Marwat, Secretary  
Social Welfare Department  
Dr. Khalid Masood, Hospital 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.  
*(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.

In C.M.A.  
No.3099/2020 Samuel Payara,  
Chairman, Implementation of Minority  
Rights Forum

Date of Hearing : 19.05.2020.

**ORDER**

**Gulzar Ahmed, CJ.-** We have heard the learned Attorney  
General for Pakistan, Lieutenant General Muhammad Afzal, Chairman,  
National Disaster Management Authority (**NDMA**) and also the Advocate  
General, Sindh.

2. At the very outset, learned Attorney General for Pakistan has emphatically stated about the presence of Coronavirus (Covid-19) in Pakistan and has contended that this virus has spread in the Country, infecting considerable portion of its population, which is the matter of grave concern for the Government of Pakistan. He has further contended that worst is yet to come and the Government of Pakistan is expecting severe spike in spreading of this virus in the month of June, 2020. He has further contended that the resources available with the Government of Pakistan are not enough to meet the emerging scenario and there is every likelihood that the health sector will be overwhelmed. He has explained that Pakistan's economy was already facing challenges when the incumbent Government took charge of the Country, in that, not much money was available in the coffers and while the Government was making effort to recover from the economic crises, this Coronavirus (Covid-19) emerged and all resources of the Government meant for health sector, were exhausted in dealing with this virus and even the resources, meant for other development activities, were also utilized to meet the challenges emerging from this virus. He has contended that Government has taken all necessary steps to secure the life of the people of Pakistan. He has, however, contended that the emerging challenges owing to Coronavirus (Covid-19) are real.

3. We are fully cognizant that the menace of Coronavirus (Covid-19) is very much present in Pakistan and it has also caused large number of fatalities and considerable number of people have been infected and their numbers are increasing day-by-day. It is obvious that this Coronavirus (Covid-19) has come as an additional burden on the Government of Pakistan and the manner in which this virus has started spreading in Pakistan, has set the alarm bell ringing. This virus being

new, there was no readiness of the Government to deal with the same, nor the necessary medical equipments were available to face the growing number of infected cases. Yes, the Government of Pakistan did take immediate steps to face this virus and mitigate its effects on the people of Pakistan, and in this regard, colossal amount of money was diverted and used. We admit that Pakistan has a struggling economy and Coronavirus (Covid-19) made it more staggering. However, we note that the people of Pakistan have a fundamental right, namely, right to life, under which Government of Pakistan is required to provide to the people of Pakistan safe and healthy living conditions.

4. A request has been made by the learned Attorney General for Pakistan so also the learned Advocate General, Sindh that a team of doctors may be constituted and its opinion sought on the Coronavirus (Covid-19). For the time being, this Court does not consider it essential to undertake this exercise, for that, this matter is already in the hands of the Government functionaries and if necessary, they can obtain the opinion from the doctors and to conduct themselves in accordance with the Constitution and the law.

5. We have heard the Chairman, NDMA, who has given elaborate briefing about the activities of NDMA and use of allocated funds by it. He has stated before us that Coronavirus (Covid-19), being a new virus, required special gears, tools and equipments for protection, treatment and control of the same, and such gears, tools and equipments being not readily available in the scale, as were required to deal with the Coronavirus (Covid-19), the Government of Pakistan allocated funds to immediately procure the same. Such gears, tools and equipments were procured from abroad and distributed harmoniously among all regions of Pakistan. He has further stated that the gears, tools and equipments

meant for facing and treating of this virus, were not being manufactured in Pakistan but now its manufacturing has started and no more imports are being made, rather all demands are being satisfied from local productions. About the ventilators, he has stated that orders have been placed for importing of 1187 Ventilators from abroad, out of which 300 have been received and distributed among all the four Provinces, ICT and G.B. As soon as the remaining are received, they will also be distributed accordingly. He has further stated that the very manufacturing of Ventilators in Pakistan has been started and soon they will be available in the market. He stated that the Ventilators manufactured in Pakistan shall be of international standards and capable of being exported abroad. Thus, Pakistan will be self-sufficient in all manners to face the Coronavirus (Covid-19). He has further stated that although initially the Pakistan Army through its company, DESTO has made investment in manufacturing of Personal Protective Equipment (**PPEs**) and testing kits but the private sector is also free to manufacture PPEs, testing kits, Ventilators and in this respect there is no impediment.

6. Having said about the meeting of challenges of Coronavirus (Covid-19), the Chairman, NDMA further stated that yet another big challenge is seriously emerging in Pakistan that of Locust attack to its agriculture fields and the NDMA has activated itself to deal with and overcome this challenge. In this regard, not only it has imported from abroad, a special aero-plane for spraying the pesticides but local manufacturing of the components, which are required for use in the aeroplanes, has also started, to ultimately manufacture the aeroplanes locally. He has stated that all arrangements have been made to fight the Locust, which has already arrived in the region, practically, all over Pakistan and more lethal swarms of Locust is near to arrive. The NDMA

is prepared to immediately get rid of it and save the agricultural fields of the Country.

7. We are sanguine that the Chairman, NDMA will be able to cope with both the menaces, i.e., Coronavirus (Covid-19) and Locust attack. We wish him success in these endeavours.

8. The Government of Pakistan, as stated by the learned Attorney General, is doing everything to mitigate the miseries of the people though it is short of funds and for that purpose, seeking aid from abroad. Let a further report in this regard be submitted by the NDMA so also the National Health Services and Research Center (NHSRC). Further the report be also submitted by the Federal Government as well as by the Provincial Governments, ICT and G.B.

9. We have read Clauses (1) and (4) of Article 149 of the Constitution of the Islamic Republic of Pakistan, 1973, which are as follows:-

***"149. Directions to Provinces in certain cases.***

*(1) The executive authority of every Province shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation, and the executive authority of the Federation shall extend to the giving of such directions to a Province as may appear to the Federal Government to be necessary for that purpose.*

*(2) .....*

*(3) .....*

*(4) The executive authority of the Federation shall also extend to the giving of directions to a Province as to the manner in which the executive authority thereof is to be exercised for the purpose of preventing any grave menace to the peace or tranquility or economic life of Pakistan or any part thereof."*

Reading of the above provisions of the Constitution, clearly show that the Executive Authority of all the Provinces are mandatorily required to be exercised so as not to impede or prejudice the exercise of the Executive Authority of the Federation and the Executive Authority of the

Federation shall extend to giving of such directions to Provinces, as may appear to the Federal Government to be necessary and further that the Executive Authority of the Federation shall also extend to giving of directions to Provinces as to the manner in which the Executive Authority of the Provinces is to be exercised for the purpose of preventing any grave menace to the peace or tranquility or economic life of Pakistan or any part thereof. Obviously, the Coronavirus (Covid-19) is a grave menace to the peace, tranquility and economic life of Pakistan, and thus, the Executive Authority of the Federation shall stand extended to giving of the directions to the Provinces to prevent the menace.

10. At this stage, Mr. Samuel Payara, Chairman, Implementation of Minority Rights Forum, has appeared and referred to C.M.A No. 3099 of 2020 in which it is alleged that sanitary staff in the Province of Sindh, particularly of Hyderabad Development Authority (**H.D.A.**) have not been provided protective gears, nor have they been paid their salaries for about nine months and sanitary staff employed by the contractors are in worst condition. He further states that pension to the retired sanitary staff is not being paid. Similar is said about the Governments of Punjab, KP, I.C.T. and G.B.

11. Learned Attorney General and the learned Advocates General of all the four Provinces, I.C.T. so also G.B. have given assurance that grievance of the sanitary staff will be specifically and seriously redressed by the relevant Government officials, in that, all sort of protective gears shall be provided to them within a week's time positively. Further, salaries of all the sanitary staff shall be paid by all the Governments/Local Governments including, HDA. The pension of the sanitary staff shall also be paid. The salaries and pensions shall be released and paid in full within two days. The conditions of sanitary staff,

employed by the contractors, shall also be examined. The sanitary, being a core work of the Government, we fail to understand as to how this work is being done by awarding contracts. Apparently, such contracts are mere sham contracts and this Court on the next date of hearing will examine this issue.

12. All Government departments are directed to file before the Court copies of the contracts with the contractors employing sanitary employees. All their dues shall also be paid by the contractors positively within two days and if not done so by the contractors, the same be done by the respective governments. Let a compliance report in this regard be also submitted to the Court. Adjourned to **08.06.2020**.

**Chief Justice**

**Judge**

**Judge**

**Judge**

**Judge**

Islamabad, the  
19<sup>th</sup> May, 2020  
Not approved for reporting  
*Ghulam Raza/-*