

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE TASSADUQ HUSSAIN JILLANI
MR. JUSTICE AMIR HANI MUSLIM

CIVIL PETITION NO. 2408-L OF 2009

(On appeal from the order dated 27.10.2009 passed
by the Lahore High Court, Lahore in ICA No.
884/2009)

Wukala Mahaz Barai Tahafaz Dastoor

... Petitioner

VERSUS

Federation of Pakistan and another

... Respondents

For the Petitioner: Mr. Sarfraz Ahmed Gorsl, in person

For the Respondents: N.R.

Date of Hearing: 04.09.2013

ORDER

TASSADUQ HUSSAIN JILLANI, J.- Leave is sought against the order dated 27.10.2009 vide which petitioner's Intra Court Appeal against the order of the learned Single Judge in Chamber was dismissed and the order of the learned Single Judge in chamber was upheld. Vide the latter order the learned High Court had dismissed petitioner's Constitution petition, wherein following prayers were made:-

“(iii) Respondent Federation be directed to command the Armed Forces of Pakistan to defend Pakistan against the external aggression currently carried out by the American Forces under NATO cover which are in occupation of Afghanistan.

(iv) An authoritative declaration be made that USA is an Enemy State and for taking all measures provided by the domestic law such as expulsion of its diplomatic personnel and seizure of assets.

- (v) *If Nuclear Arsenal is found to be incapable of protecting Pakistan and instead poses a threat to its survival, respondent Federation may be directed either to sell it in international market to the highest bidder or to place it in safe-custody of Iran."*

2. A bare reading of the afore-quoted prayers would indicate that the issues raised in the Constitution petition and the prayer made are relatable to matters of foreign policy, defence and security of the country. Such issues are neither justiceable nor they fall within the judicial domain for interference under Article 199 of the Constitution of Islamic Republic of Pakistan. Any such interference by the courts would be violative of one of the foundational principles of the Constitution, which envisages a trichotomy of powers between the Legislature, Executive and Judiciary. That being so, we do not find the concurrent orders of the learned High Court to be exceptionable, warranting interference. The petition lacking in merit is accordingly dismissed and leave refused.

JUDGE

JUDGE

Islamabad, the
4th of September, 2013
Approved For Reporting
Khuram