

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.2554 /2020

Fazal Khan

Vs

Metropolitan Corporation Islamabad and another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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16.09.2020	Jam Khursheed Ahmed, Advocate for the petitioner.
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Through the instant petition the petitioner seeks a direction to respondents to charge parking fee from vehicles on hourly basis.

2. Learned counsel for the petitioner, *inter alia*, contended that there is a contract between the petitioner and Metropolitan Corporation, Islamabad whereby the contract for charging and collecting parking fee has been awarded to the petitioner. It was submitted that some of the customers park their vehicles which remain there for hours at a flat rate mentioned in the agreement. It was contended that the petitioner be permitted to charge the parking fee on hourly basis.

3. Arguments advanced by the learned

counsel for the petitioner have been heard and the documents placed on record perused with his able assistance.

4. The petitioner entered into a contract for collection of car parking fee adjacent to Centaurus Mall, Islamabad on 28.02.2020. In the referred agreement the schedule for parking is provided. By seeking a direction from this Court, the petitioner, in essence, seeks modification of the agreement which cannot be done in a petition under Article 199 of the Constitution. Though the learned counsel for the petitioner argued that a petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 is maintainable in contractual matters and in this behalf relied upon case titled **Owaisco v. Federation of Pakistan etc.** (PLD 1999 **Karachi 472**); however, the referred judgment is not applicable to the facts and circumstances of the case. The document between the petitioner and the respondents is a negotiated one and can only be modified/ revised mutually and not unilaterally or even by direction of the Court. Learned counsel for the petitioner failed to point out any law on the basis of which a direction, sought by the petitioner, can be issued.

5. For what has been stated above, the instant petition is without merit and is accordingly dismissed *in limine*.

(AAMER FAROOQ)
JUDGE

M.Naveed

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