

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 851/2019.

Farrukh Imtiaz Khokhar

Versus

Secretary M/o Interior, Government of Pakistan, Islamabad, etc.

Petitioner by: Syed Zahid Hussain Bukhari, Advocate.

Respondents by: Barrister Mumtaz Ali, AAG.
Syed Azhar Hussain Shah, DSP (Legal).
Ghulam Abbas, S.I.

Date of Decision: 29.05.2019.

MOHSIN AKHTAR KAYANI, J:- Through this writ petition, the petitioner has assailed the notification dated 14.11.2018, whereby name of petitioner was placed by the Chief Commissioner Office, Islamabad in terms of Section 11-ee in the Fourth Schedule of Anti-Terrorism Act, 1997.

2. Learned counsel for the petitioner contends that petitioner has been acquitted from all the criminal cases, even case in which provision of Section 7 ATA was referred, has been concluded by the trial Court and petitioner has been acquitted in the said criminal case FIR No.643, dated 17.08.2012, U/S 302, 427, 148, 149, 301, 109 PPC, P.S. Airport, Rawalpindi; that petitioner has not been convicted in any of the criminal case rather he has been acquitted in all the cases referred by respondents in para-wise comments; that in order to place name of the petitioner in the said list respondents' side has got lodged another fake FIR vide FIR No.11, dated 28.03.2019, U/S 11-F(6), 11-J, 11-I, 11-

H, 11-N, 11-W(2), 7 ATA, 4/5 ESA & 13/20/65 Arms Ordinance, P.S. CTD, Multan; that review application has been filed against the notification issued by the office of Chief Commissioner, Islamabad before Secretary, Ministry of Interior, Government of Pakistan but the same has not yet been decided.

3. On the other hand respondents No.4 & 5 have submitted complete resume of the cases pending against the petitioner and it has been alleged that petitioner is member of land grabbing and qabza mafia.

4. Arguments heard, record perused.

5. From the perusal of record, it reveals that name of the petitioner was placed in fourth schedule of Anti-Terrorism Act, 1997 in terms of Section 11-ee vide notification dated 14.11.2018. The provision of Section 11-ee empowered the Federal Government to enlist a person as proscribed person in Fourth Schedule on an *ex-parte* basis, if there are reasonable grounds to believe that such person is related to terrorism activities or is an activist, office bearer of an association or an organization against whom observation order has been passed in terms of Section 11D or is a member of proscribed organization in terms of Section 11B of the ATA, 1997. However, respondents have failed to demonstrate any valid justification to place the name of petitioner in the proscription of person U/S 11-ee and the only evidence available with the respondents' side is registration of criminal cases referred above.

6. I have gone through each and every case with the able assistance of learned counsel for the parties, which reveals that petitioner has not been convicted in any of the criminal case mentioned in para-wise comments from S.No.i to x rather acquitted from the said charges and the only pending case is registered at P.S. CTD Multan. The last case FIR No.11, dated 28.03.2019, U/S 11-F(6), 11-J, 11-I, 11-H, 11-N, 11-W(2), 7 ATA, 4/5 ESA & 13/20/65 Arms

Ordinance, P.S. CTD, Multan has been registered against the petitioner during the pendency of instant writ petition.

7. The record further reveals that petitioner has assailed the very registration of said FIR before the Lahore High Court vide W.P No.1119/2019 (Samar Imtiaz Khokhar Vs. SHO, etc.) and the Hon'ble Division Bench of Lahore High Court disposed of the same with direction to the Inspector General of Police, Punjab, Lahore to look into the situation.

8. While considering the entire background, the matter purely falls within the jurisdiction of Chief Commissioner, Islamabad and in terms of Section 11-c Proscription Review Committee constituted by the Federal Government is empowered to decide the pending review within period of 30 days.

9. Keeping in view the above background, alternate remedy has already been invoked by the petitioner which has not yet been decided, therefore, while considering this aspect instant writ petition could not be decided independently. Hence, instant writ petition stands disposed of with direction to the Chief Commissioner, Islamabad to decide the pending review within period of 30 days under intimation to this Court. It is expected from the Chief Commissioner, Islamabad to pass a speaking order after hearing the petitioner while considering the observations referred above.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid