

ORDER SHEET  
ISLAMABAD HIGH COURT  
ISLAMABAD

**W.P.No.788/2015**

Syed Tabbasum Abbas

VERSUS

Islamabad Capital Territory through Chief Commissioner, Islamabad etc

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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20.8.2019. Mr.Mujtaba Haider Sherazi, Advocate for Petitioner.  
Raja M.Aftab Ahmed, AAG.

Through this writ petition, the Petitioner has prayed for removal of his name from 4<sup>th</sup> Schedule of Anti-Terrorism Act, 1997 which was notified vide notification dated 22.1.2015.

2. Learned counsel for the petitioner contends that petitioner was not associated in any enquiry nor given any opportunity of hearing and his name has been placed in the 4<sup>th</sup> Schedule of Anti-Terrorism Act, 1997 in section 11EE through the notification by the Chief Commissioner, Islamabad Capital Territory. It was further contended that petitioner is journalist by profession and managing the affairs of daily "Kainaat". He further contents that parawise comments submitted by respondent side only refers two FIR i.e FIR No.473 dated 25.11.2013 under sections 186/188/411 PPC PS Ramna, Islamabad and FIR No.424 dated 14.11.2014 under sections 341/295-A/427/148/149 PPC and 7/9 ATA PS Ramna, Islamabad whereas the petitioner has been acquitted from the said criminal cases and as such there is no evidence on record to place the name of the petitioner in the 4<sup>th</sup> Schedule of Anti-Terrorism Act, 1997.

3. Conversely learned Assistant Attorney General contends that petitioner was involved in two criminal cases whereas FIR No.424/2014 reflects that same was registered under Anti-Terrorism Act. It has further been argued that petitioner was organizing the procession on 20<sup>th</sup> Moharram-ul-Harram without

valid permission as well as without any licence of the District Administration, ICT, Islamabad which created annoyance in the general community.

4. Arguments heard. Record perused.

5. Perusal of record reveals that name of the petitioner has been placed in the 4<sup>th</sup> Schedule of Anti-Terrorism Act, 1997 in terms of Section 11EE vide notification dated 22.1.2015 by the Chief Commissioner, Islamabad being the activist of Ahl-e-Tashee. Record further reveals that case FIR No.473/2013 was registered against the petitioner for arranging Majalis and carrying out procession illegally. Similarly, another FIR No.424/2014 was registered against the petitioner as a quarrel took place between Ahl-e-Sunnat and Ahl-e-Tashee groups. The third allegation against the petitioner is regarding the arrangement of procession on 20<sup>th</sup> Moharram-ul-Harram without valid permission and licence of the District Administration, ICT, Islamabad due to which unrest and retaliation was raised in the area of PS Ramna as a result whereof the name of the petitioner was placed in 4<sup>th</sup> Schedule of anti-Terrorism Act, 1997. Keeping in view the above, petitioner was confronted with the criminal cases whereby a certified copy of the judgment dated 19.9.2015 passed by the Judicial Magistrate Ist Class-West, Islamabad was placed on record whereby the petitioner has been acquitted in case FIR No.473/2013. Similarly, copy of an order dated 18.8.2015 was also placed on record whereby the Additional District Magistrate, ICT, Islamabad had withdrawn the case FIR No.424/2014 and FIR No.487/2014 registered at PS Ramna. Keeping in view the above back ground the reasons on which the name of the petitioner was placed on 4<sup>th</sup> Schedule of Anti-Terrorism Act, 1997 are no more in the field.

6. I have gone through the provisions of ATA, 1997, whereas the said Act is to provide the necessary prevention from terrorism, sectarian violence and Section 11EE has been legislated whereby Federal Government is empowered to enlist a person as proscribed person in 4<sup>th</sup> Schedule on an ex-parte basis, if there are reasonable grounds to believe that such person is related to terrorism activities or an activist, office bearer of an associate of 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.

7. The above mentioned requirement of law is necessary to be applied after receiving the credible information from different organization, authorities, law enforcement agencies or from any international institution, whereas, in this case police officials submitted the report before this court and have alleged that petitioner is an organizer of religious procession to be held on 20<sup>th</sup> Moharram-ul-Harram in year 2014 without any valid permission or licence from the District Administration, Islamabad. In my view every citizen of Pakistan has been given assurance and guarantee for freedom of movement, assembly, speech and association as well as right to profess, practice and propagate his religion in terms of Articles 15, 16, 17, 19 and 20 of the Constitution of the Islamic Republic of Pakistan, 1973 whereas it has not been denied that all such practices to profess and propagate the particular sect or religion is qualified with the terms “subject to law, public order and morality”.

8. The instance of respondents referred in the parawise comments regarding the conduct of petitioner on the basis of two FIRs has already been settled and for placing the petitioner as an

activist of Ahl-e-Tashee is not a valid reason to place the name of the petitioner in the 4<sup>th</sup> Schedule of Anti-Terrorism Act, 1997 in terms of Section 11EE.

9. The provision of Section 11EE of the ATA, 1997 has been applied on the ex-parte basis by the authorities while receiving the information from different sources and as such the petitioner has not been confronted with any such information, therefore, fundamental right in terms of fair trial as referred in Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 has been violated. There is no denial that both the cases registered against the petitioner have been settled and petitioner is not the accused in any case. Even otherwise respondent authority failed to place any document on record through which it could be ascertained that petitioner is member of Proscribed Organization in terms of Section 2 (q), 11(b) of the ATA, 1997, nor he is involved in any case of Anti-Terrorism in this regard, therefore, prima-facie the requirement to place the name of the petitioner in 4<sup>th</sup> Schedule of Anti-Terrorism Act, 1997 is not visible. Therefore, instant writ petition is allowed, impugned notification dated 22.1.2015 issued by the office of Chief Commissioner, Islamabad is declared to be illegal to the extent of petitioner. Respondent No.1 is directed to remove the name of the petitioner from 4<sup>th</sup> Schedule of Anti-Terrorism Act, 1997.

10. Before parting with the instant order it is pertinent to mention here that the petitioner shall submit undertaking to the Chief Commissioner, ICT and Deputy Commissioner, Islamabad as well as to SHO PS Ramna that he will only arrange religious procession after due approval and permission from the competent authority.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

M.S.Zaki.