

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. 3545/2019

Riaz Hanif Rahi

Vs

Federation of Pakistan, etc

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
---	---	--

01). **16-10-2019** Mr. Riaz Hanif Rahi, Advocate/petitioner in person

Through this consolidated order I shall decide the instant petition along with W.P No. 3450/2019 (Hafiz Ihtasham vs. Federal Government through Secretary Interior, etc.).

2. The petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution seeking a direction to the respondents to restrain respondent no.9 i.e. Jamiat Ulema-e-Islam JUI (F) from holding a protest march/sit-in at the D Chowk, Islamabad.

3. The petitioners who have appeared in person have been heard at length. Mr. Riaz Hanif Rahi, Advocate has argued that an application has been filed by respondent no.9 whereby the Chief Commissioner, Islamabad Capital Territory has been informed that a rally/sit-in at D-Chowk, Islamabad will be held on 27-10-2019. He has argued that the declared purpose for which the protest is being organized manifests malafide and it is apprehended that daily activities of citizens of

Islamabad Capital Territory would be disrupted. The petitioners were asked whether the Chief Commissioner, Islamabad Capital Territory or any other competent authority has given consent for holding a protest rally/sit-in at D-chowk, Islamabad. They have answered in the negative. The petitioners have drawn the attention of this Court to earlier orders/judgments of this Court wherein principles have been highlighted, besides declaring a designated area for exercising the right to protest.

4 It is noted that peaceful protest by unarmed persons is a constitutionally protected right. This right stems from the fundamental rights of freedom of assembly, freedom of association and freedom of speech/expression, which are guaranteed under Articles 16, 17 and 19 of the Constitution of the Islamic Republic of Pakistan, 1973, respectively. No law-abiding citizen can, therefore, be denied the right of peaceful protest. However, correspondingly the peaceful protesters cannot be allowed to infringe the fundamental rights of other citizens. It is thus the duty of public functionaries to ensure that the constitutionally guaranteed rights of every citizen are protected. Maintaining public order is a crucial responsibility of the State and its functionaries. The right to protest is indeed not an absolute right but it is subject to reasonable restrictions. It is the responsibility of the law enforcing authorities to consider several

factors while imposing restrictions or conditions for the purposes of regulating a peaceful protest so that the rights of other citizens also remain protected. In this regard they may impose restrictions regarding route or venue or impose any other condition having regard to maintaining public order and protecting the rights of other citizens. The State only in extraordinary and exceptional circumstances can restrain a person from exercising his or her right to protest on the ground of national security. It is also an obligation of the organizers of a protest and the participants to remain peaceful, unarmed and to strictly comply with the reasonable restrictions and conditions imposed by the competent authorities.

5. Admittedly, letter, dated 08.10.2019 is being considered by the Chief Commissioner, Islamabad Capital Territory and other law enforcing authorities since no order has been passed as yet. These petitions are, therefore, based on mere apprehensions because no decision has been taken by the competent authorities. The competent authorities are obviously expected to take into consideration all the relevant factors, particularly the relevant judgments rendered by this Court or by the august Supreme Court regarding holding of protest rallies/sit-ins within the Islamabad Capital Territory. It is noted that maintaining public order and protecting fundamental rights of every citizen is a constitutional obligation of the public functionaries

who have been entrusted this onerous task. They cannot be dictated by this Court as to what measures they are required to take in this regard or how protest rally/sit-in is to be regulated. These matters are within the exclusive domain of the executive authorities and no direction can be given by this Court.

6. The petitions are, therefore, disposed of with the expectation that the competent authorities will ensure that constitutionally guaranteed rights of every citizen remains protected and that public order is maintained by ensuring that writ of the State is enforced.

(CHIEF JUSTICE)

*Asif Mughal/**

Approved for Reporting .