

**IN THE SUPREME COURT OF PAKISTAN**  
(Original Jurisdiction)

PRESENT: Mr. Justice Qazi Faez Isa  
Mr. Justice Jamal Khan Mandokhail

**Suo Moto Case No. 4/2021**

In Attendance: Mr. Abdul Qayyum Siddiqui and  
Mr. Asad Toor, Journalists  
(Applicants)

Date of hearing: 20.08.2021

**ORDER**

**Qazi Faez Isa, J.** An application has been submitted in Court by five working journalists, including the President of the Press Association of the Supreme Court and the former President of the said Association alleging large scale violations of Fundamental Rights enshrined in the Constitution of the Islamic Republic of Pakistan (**'the Constitution'**) and that the government and/or organizations/agencies under its control are primarily violating these Fundamental Rights.

2. The applicants state that journalists are harassed, intimidated, attacked and shot at and there are no consequences for the perpetrators and, it is further alleged, that those who should be protecting journalists and ensuring the freedom of the press, guaranteed under Article 19 of the Constitution, are involved.

3. Reference is also made to a 'Press Release', attached with the application, which is issued by the Federal Investigation Agency (**'FIA'**) stating that criminal cases have been registered against some journalists because they report against the judiciary. However, the said Press Release does not disclose what was said against the judiciary.

4. Judges of the superior Courts are mandated by the Constitution to ensure that Fundamental Rights are at all times guaranteed and enforced. The said Press Release creates an

impression that criminal cases were registered at the behest of the judiciary, and in doing so it portrays the judiciary to be inimical to the guaranteed Fundamental Right of a free press. The FIA appears to have overstepped its legal mandate and to have undermined the peoples' confidence in the judiciary which is the guarantor of the Fundamental Rights. By such tactics, the respect, regard and confidence of the people in the judiciary may be undermined and the judiciary may also be disrespected and portrayed as standing with FIA. The Director General of FIA ('**DG**') without whose authorization the Press Release may not have been issued or who till date has not retracted it, be issued notice to disclose who authorized the issuance of the Press Release and to submit his personal written explanation why he permitted its issuance mentioning the judiciary and if it was not issued by him then why did he not withdraw it. The DG, FIA is also directed to be present in-person in Court along with the entire original record of the cases against journalists in respect of whom the Press Release was issued and is further directed to submit a complete list of cases filed against journalists, and such list should specify the actual content, that is transcript of the text, which FIA deemed to constitute an offence.

5. The application also complains that journalists are not allowed to work freely and pursue their careers, which is a violation of Article 18 of the Constitution that guarantees right to enter upon any lawful '*profession or occupation*'. Therefore, if a media house/television channel is prevailed upon to sack any journalist because of his/her independent reporting it appears to violate Article 18 of the Constitution. Therefore, notice be issued to the Pakistan Electronic Media Regulatory Authority ('**PEMRA**') through its Chairman, who is directed to submit his written response disclosing action taken against the media houses/television channels which resort to such tactics. PEMRA should also disclose its role in ensuring that press freedom is ensured and that all political parties, both in the government and in opposition, receive the same broadcast time in compliance with

the reported judgments in the cases of *Fatehyab Ali Khan* and *Muhammad Aslam Saleemi*.

6. The ever so frequent attacks on journalists and their abductions, including in the Federal Capital Territory, Islamabad, is another violation of Fundamental Rights which has been raised in the application. It is stated that the Constitution in its Article 9 guarantees the right to one's *liberty* and Article 10 of the Constitution safeguards illegal arrests and detention. This matter becomes a matter of concern when the perpetrators are not arrested and, all the more so, when it happens under the cameras of the Safe City Project, Islamabad. Inability in this regard may suggest incompetence, which may constitute dereliction of duty, or far worse abetment, which is an offence. Therefore, notice be also issued to the Inspector General of Police of the Islamabad Capital Territory and the Ministry of Interior, Government of Pakistan, Islamabad through its Secretary to separately submit their written replies under their respective signatures listing the number of attacks on journalists, the progress made in the investigation of the FIRs, including identifying the attackers, and whether the recordings from the cameras of the Safe City Project were used to trace out the perpetrators. The amount spent on the Safe City Project be also disclosed.

7. Allegations have also been made that pliant media houses/television channels which agree to project a particular political narrative and suppress a contrary one benefit financially by misusing public exchequer funds as they are given advertisements and other benefits while others are deprived. Therefore, notice be also issued to the Ministry of Information and Broadcasting, Government of Pakistan, Islamabad through its Secretary, who is directed to provide details of the amounts paid/disbursed on account of advertisements in the last financial year, till date, and the criteria, if any, used in determining the beneficiaries. Other benefits that may have been given, including foreign trips be also disclosed. The Secretary, Ministry of Information and Broadcasting, Government of Pakistan, Islamabad

is further directed to disclose the Ministry's annual budget and the work that it does.

8. The founder of the country, Muhammad Ali Jinnah, as Member of the legislative council had highlighted the freedom and independence of the press at a time when the subcontinent was under direct British occupation and rule. He expressed that a vibrant press, which pointed out wrong doing and highlighted public issues, serves the people and the country's interest. The question arises whether the expectations that the Quaid had for Pakistan have been achieved, because the applicants have referred to reports which point out that press freedom in Pakistan is at an abysmal level.

9. Reference in the application is also made to Islam. Article 227 of the Constitution mandates abiding by the injunctions of Islam. Propagating the truth is an obligation stipulated in the Holy Qur'an. The Prophet (peace and blessing be upon him) stated that to speak against injustices and tyranny constitutes *jihad-e-akbar*, the greater *jihad*. Therefore, let notice be also issued to the Ministry of Religious Affairs and Inter-faith Harmony, Government of Pakistan, Islamabad through its Secretary, who is directed to submit if the Ministry has done anything to ensure that the speaking and broadcasting of the truth is encouraged.

10. Since this is also a matter pertaining to the work which the Ministry of Human Rights, Government of Pakistan, Islamabad should be doing, let it, through its Secretary, submit what, if anything, it has done with regard to the matters complained of in the application and to state if the allegations which have been leveled are true and, if so, who in its opinion is violating the stated Fundamental Rights.

11. We have decided to treat this application as one under Article 184(3) of the Constitution because it demonstrates that matters of *public importance* have been raised *with reference to the enforcement of Fundamental Rights*, including Articles 9, 11, 13,

14(1), 14(2), 15, 18, 19, 19A, 23, 24(1) and 25A and as such it meets the stipulated criteria prescribed in Article 184(3) of the Constitution. Moreover, if the allegations which have been leveled are true then it would be a grave transgression of the Constitution requiring urgent redressal.

12. Notices be also issued to the representative bodies of the press, who we are informed are the Pakistan Broadcasters Association (PBA), the Council of Pakistan Newspaper Editors (CPNE), the All Pakistan Newspaper Society (APNS) and the Pakistan Federal Union of Journalists (PFUJ) to state whether the allegations made in the application are correct or otherwise. Notices to be also issued to the public sector Pakistan Television Corporation (PTC) and Pakistan Broadcasting Corporation (PBC) through their respective Managing Directors/Heads, who are directed to submit in writing whether they are abiding by the guaranteed Fundamental Right of a free press and are complying with the decisions in the above mentioned judgments. The Attorney General for Pakistan and the Advocate Generals of the four provinces and the Islamabad Capital Territory to be issued notices under Order XVIIA of the Code of Civil Procedure.

13. The office is directed to number this petition and to array the *Press Association of the Supreme Court* as petitioner No. 1 and the other signatories as petitioner Nos. 2 to 5. And, to array the aforementioned Ministries, FIA, PEMRA, IG Police Islamabad, PTC and PBC as respondents. **Adjourned to 26 August 2021** by or before which date all replies should be filed. Since this Bench of the Supreme Court has taken notice pursuant to Article 184(3) of the Constitution and has heard the applicants at some length let this case be fixed before the same Bench.

Judge

Judge

*Bench-II*  
ISLAMABAD  
20.08.2021  
(Farrukh)