

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Qazi Muhammad Amin Ahmed

Civil Petition No.4188 of 2019

(Against the judgment dated 01.10.2019 of the
Lahore High Court, Rawalpindi Bench passed in
Intra Court Appeal No.63 of 2019)

Hubdar Hussain Malik

....Petitioner(s)

Versus

Deputy Commissioner Chakwal and another

....Respondent(s)

For the Petitioner(s): Mr. Hassan Raza Pasha, ASC

For the Respondent(s): N.R.

Date of hearing: 05.08.2020.

ORDER

Qazi Muhammad Amin Ahmed, J.- The petitioner, a *Shiite* Muslim, sought issuance of a *mandamus* for security arrangements regarding a procession during the month of *Moharram-ul-Haram* that he claimed to be an annual ritual in the village since the time immemorial; relying upon various Articles of the Constitution of the Islamic Republic of Pakistan, he prayed the High Court to issue appropriate directions to the Deputy Commissioner Chakwal to set in place the measures suggested in the Constitution petition; the request was disposed of by a learned Judge-in-Chamber, in the following terms:

“.....As Deputy Commissioner, Chakwal/respondent No.1 has already sent an intimation to the District Police Officer Chakwal/respondent No.2 for provision of security as per previous practice/SOPs and Assistant Commissioner as well as DSP, in attendance, ensure that they will make best efforts that no untoward situation occurs and provide the security as per law; learned counsel for the petitioner feels satisfied and under instructions states that they will conclude the Majlis within 45 minutes, hence, the petition is disposed of as such.”

The petitioner sought review of the order through an application, dismissed *in limine* on 18.9.2019; his next move through an Intra Court Appeal met

with no better fate on 01.10.2019, as the event had by then peacefully passed by.

2. Learned counsel for the petitioner contends that notwithstanding the flux of time a permanent security arrangement as proposed by the petitioner is required to ensure peace and tranquility during the month of *Moharram-ul-Haram* and, thus, it was incumbent upon the High Court to issue the directions prayed for.

3. Heard.

4. Subject to law, public order and morality, the Constitution confers upon every citizen the right to profess, practice and propagate his religion; in a normal/ideal situation, profession and practice of a particular faith by a believer or group thereof should not pose any issue, calling for intervention of State functionaries, however, the state of affairs unfortunately, over the time, has deteriorated alarmingly; routine events of the past have now become, more often than not, security nightmares with no recession or respite being in sight, therefore, with mounting pressures and threats, the functionaries, tasked with the responsibility to maintain peace and tranquility in the society in order to ensure safety of human lives, must be provided autonomy of discretion with enough space to carry out their job without let or hindrance; security measures are resource intensive arrangements with financial impacts upon public exchequer, therefore, it is essential as well as expedient that exercise of freedom is reasonably regulated on administrative considerations on the paramountcy of larger public interest. The functionaries are the best Judges to evaluate the nature and magnitude of threats so as to take all appropriate remedial measures/steps required to obviate impending disasters; these are not justiciable issues and, thus, the learned Judge-in-Chamber had rightly heeded the report submitted by the Deputy Commissioner Chakwal; peaceful conclusion of the event amply vindicates his position. Petition fails. Leave declined.

Judge

Judge

Islamabad, the
5th August, 2020

Not approved for reporting

Azmat/-

