

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT
MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, C.J.
MR. JUSTICE GHULAM RABBANI

CONSTITUTION PETITION NO. 43 OF 2009
*(Petition under Article 184(3) of the Constitution
against molestation and humiliation of Eunuch and
Restoration their fundamental Rights)*

Dr. Mohammad Aslam Khaki & another
.... Petitioners

Versus

Senior Superintendant of Police (Operation) Rawalpindi & others
.... Respondents

For the Petitioner	Petitioner in person with Almas Bobi, President Shemale Rights of Pakistan
For the Federation	Mr. Mujtaba Haider Sherazi, D.A.G. Mr. M. S. Khattak, AOR Mr. Haroon Joyia, SP City Islamabad Mr. Azhar Hussain Shah, DSP Legal Mr. Sajid Abbas, Inspector Legal
For Govt. of Balochistan	Mr. Muhammad Azam Khattak, Addl.AG Mr. Abdullah Baloch, Director (S.W.)
For Govt. of KPK	Syed Arshad Hussain Shah, Addl. AG
For Govt. of Punjab	Ch. Khadim Hussain Qaiser, Addl. AG Qazi Zahoorul Haq, EDO (Edu.) Mr. Irshad Ahmad, S.O. (S&GAD) Mr. Muhammad Shahid Rana, D.O.(S.W) Mr. Israr Ahmad Khan, SP, (Pothohar) Raja Akhtar, D.S.P Taxila Mr. Muhammad Yar, SHO Taxila
For Govt. of Sindh	Mr. Miran Muhammad Shah, Addl. A.G. Raja Abdul Ghafoor, AOR
Date of hearing	22.3.2011

ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, C.J.-

Petitioner in person states that Chairman and Deputy Chairman of NADRA in compliance with directions of this Court have shown significant progress to resolve the issue of recording parentage and sex of the eunuchs and deliberations in this behalf are under consideration. A report has also been received from NADRA. We do appreciate for making efforts to resolve the problems of eunuchs about their identity. Essentially it is an important issue and we are hopeful that the Chairman NADRA on account of his sincere commitments and efforts shall be in a position to ensure that eunuchs are provided National Identity Cards so their status in the society is recognized and on account of showing sincere efforts we hereby observe that all concerned functionaries should extend cooperation to them.

2. Needless to observe that eunuchs in their own rights are citizens of this country and subject to the Constitution of the Islamic Republic of Pakistan, 1973, their rights, obligations including right to life and dignity are equally protected. Thus no discrimination, for any reason, is possible against them as far as their rights and obligations are concerned. The Government functionaries both at Federal and Provincial levels are bound to provide them protection of life and property and secure their dignity as well, as is done in case of other citizens.

3. Similarly, Federal and Provincial Governments are equally responsible to recognize their rights. The efforts so far made in this behalf on the part of the Governments of KPK, Punjab and Sindh are, however, appreciated and we expect that Government of

Balochistan would also protect the life and property as well as the dignity of the eunuchs accordingly.

4. It is true that some progress has been made but the Provincial Governments through the Secretaries Social Works Department are required to make more efforts to implement the directions of this Court contained in the orders dated 17.8.2009 and 23.12.2009. Copies of these orders be dispatched to them as well as the Commissioner Islamabad and to the Ministry of Social Welfare & Special Education, Government of Pakistan for implementation and report on the next date of hearing.

5. It has been noticed that whatever the complaints are registered for and against the eunuchs the same with action taken thereon are not intimated by the police to the Registrar of this Court. Direction so contained in the order dated 17.08.2009 be repeated to all the PPOs and the I.G. Police, Islamabad for compliance in letter and spirit.

6. While hearing this case it has been noticed that there is some gap of communication between the administration and the eunuchs perhaps for the reason that they have no representation or they do not have a focal person, therefore, Secretaries Social Welfare and Special Education, Islamabad, may adopt a strategy to appoint one or more than one focal person amongst them who may interact with the administration.

7. In the orders noted above we have pointed out for initiating process to locate the ascendants (parentage) of the eunuchs with a view that if the latter have any right of inheritance in moveable and immoveable properties, they should get the same according to law

but it seems that no progress has been made in this behalf so far. Secretaries Social Welfare of all the provinces and Commissioner Islamabad who have already registered the eunuchs may seriously look into this aspect of the case and make efforts to ensure that their rights in the property as are devolved on them according to law, are fully protected.

8. Petitioner contends that after passing the orders a significant progress has begun to take place and social status of the eunuchs is being gradually recognized yet due to lack of awareness/knowledge/ideas and information about the rights and obligations concerning the eunuchs not conveyed in every nook and corner, they are not getting what is actually due to them, therefore, NGOs should come forward to disseminate the same appropriately. In this, it is however, observed that this is for the petitioner to interact with NGOs for the purpose because this Court is only interested, as it has been pointed out time and again, that in terms of Article 184(3) of the Constitution the fundamental rights of the eunuchs are to be fully protected.

9. Let the case be adjourned for a period of four weeks for further proceedings and the reports shall be submitted before the next date of hearing enabling the Court to go through the same to save the time.

Chief Justice

Judge

Islamabad
22.03.2011
Zulfiqar