

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Present:

Justice Qazi Faez Isa, CJ
Justice Muhammad Ali Mazhar
Justice Musarrat Hilali

Constitution Petition No.5 of 2024

(under Article 184(3) Systematic De-Forestation
Taking Place at the Fatima Jinnah Park,
F-9, Islamabad)

Public at Large

...Petitioner

Versus

Capital Development Authority and another

...Respondents

In attendance:

Malik Javed Iqbal Wains, Addl. AGP

On Court's call:

Mr. Imran Waseem, General Secretary
Press Association Supreme Court

Date of Hearing:

27.02.2024

ORDER

The Registrar of the Supreme Court had put up a note before the Committee constituted under section 2 of the Supreme Court (Practice and Procedure) Act, 2023 to consider whether proceedings may be commenced under Article 184(3) of the Islamic Republic of Pakistan, 1973 (respectively the '**Committee**' and '**Constitution**'). The note stated that '*It has been reported that a larger number of trees have been cut and there is a systematic deforestation taking place at the Fatima Jinnah Park, F-9, Islamabad. Citizens are complaining that the trees which have been cut and the ongoing deforestation is on the directions of the Capital Development Authority and that the Supreme Court should intervene to prevent this valuable resource of the citizens from being destroyed.*'

2. The Committee directed that this matter be numbered as a constitution petition under Article 184(3) of the Constitution and the Capital Development Authority ('**CDA**') and the Government of Pakistan be arrayed as respondents and the Public at large be designated as the petitioner.

3. Given the public importance of this matter and its impact on the fundamental rights of citizens of Pakistan, including rights in respect of access to public places under Article 26, which may have been undermined and as it involves deforestation and the cutting of trees which degrades the right to life under Article 9 of the Constitution as interpreted by this Court, the two preconditions stipulated in Article 184(3) of the Constitution are met. We have been informed that this Court had earlier also taken notice under Article 184(3) of the Constitution with regard to illegal activities in the Fatima Jinnah Park Islamabad (**'the Park'**) in a case (*Human Rights Cases No.4668 of 2006, 1111 of 2007 and 15283-G of 2010*, PLD 2010 SC 759). Let notice be issued to CDA and the Government of Pakistan through the Ministry of Climate Change and Environmental Coordination. Notice be also issued to the Pakistan Environmental Protection Agency (**'EPA'**) and to the Islamabad Wildlife Management Board.

4. Learned Additional-Attorney General for Pakistan (**'AAG'**) is in attendance and waives notice on behalf of Government of Pakistan. He has drawn our attention to the Islamabad (Preservation of Landscape) Ordinance, 1966 (**'Ordinance'**) and referred to the definition of *'landscape'* in its section 2(a) and that such *landscape* has to be preserved as stipulated in section 4 of the Ordinance. Learned AAG informs us that the Park comprises of the entire F-9 Sector of Islamabad, and the Park is under the control and management of CDA. Therefore, let CDA submit a report with regard to the following matters:

- (1) The number of trees recently cut and the area which has been deforested;
- (2) Under whose supervision the above was done;
- (3) On whose direction the aforesaid action was taken;
- (4) Whether tree-cutting and deforestation were done by the CDA personnel themselves or through a contractor, and if the latter, to produce a copy of the contract/agreement;
- (5) What became of the cut trees and are they to be sold;
- (6) Was approval required to be obtained from the EPA before tree-cutting/deforestation and if so, whether such approval was obtained; and
- (7) A copy of the entire file on the above and any other document which pertains thereto be submitted.

5. Mr. Imran Waseem, the General Secretary of the Press Association of Supreme Court (**PASC**), is present and he together with Mian Aqeel Afzal, the President of PASC, are appointed as joint commissioners under Order XXXII of the Supreme Court Rules, 1980 to visit the Park and take photographs/record videos showing the area where trees have been cut and area deforested. CDA and the security guards at the Park are directed to co-operate with the commissioners. The commissioners to submit their report with photographs and recordings on the next date of hearing. The fee of the commissioners will be determined later.

6. We appoint Messrs Saad Mumtaz Hashmi and Syed Hassan Ali Raza, subject to them agreeing, to represent the Public. To better assist the Court they may personally visit the Park with the commissioners or by themselves.

7. Till the next date of hearing, CDA shall not cut any tree or proceed with further deforestation. Learned AAG shall inform the CDA immediately about this order dictated in Court today.

8. To come up on 4 March 2024.

Chief Justice

Judge

Judge

ISLAMABAD
27 February 2024
Mudassar/Hassan K.W.