

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

**Present:**

Justice Qazi Faez Isa, CJ  
Justice Jamal Khan Mandokhail  
Justice Naeem Akhtar Afghan

**Civil Petition No. 304/22 and CMA No. 891 /2022**

(Against the order dated 11.01.2022 of the Islamabad High Court, Islamabad passed in FAO No. 111/2021)

<i>The Monal Group of Companies, Islamabad.</i>	...	<i>Petitioner</i>
<u><i>Versus</i></u>		
<i>Capital Development Authority through its Chairman and others.</i>	...	<i>Respondents</i>

**AND**

**Civil Petition No. 305 of 2022 and CMA No. 892 of 2022**

<i>The Monal Group of Companies, Islamabad.</i>	...	<i>Petitioner</i>
<u><i>Versus</i></u>		
<i>Capital Development Authority through its Chairman and others.</i>	...	<i>Respondents</i>

**AND**

**Civil Misc. Application Nos. 887 and 888/22 in CP NIL/22**

<i>Federation of Pakistan through Secretary, M/o Defence, Govt. of Pakistan and others.</i>	...	<i>Applicants</i>
<u><i>Versus</i></u>		
<i>M/s The Monal Group of Companies, Islamabad and others.</i>	...	<i>Respondents</i>

**AND**

**Constitution Petition No. 3 of 2024**

<i>Islamabad Wildlife Management Board through its Chairperson, Islamabad.</i>	...	<i>Petitioners</i>
<u><i>Versus</i></u>		
<i>Capital Development Authority through its Chairman and others.</i>	...	<i>Respondents</i>

For the Petitioners:	Mr. Salman Akram Raja, ASC (in CP.304/22)
	Mr. Saad Mumtaz Hashmi, ASC a/w Mr. Luqman Ali Afzal, owner of the petitioner

(in CP.305/22)

Mr. Umar Ijaz Gilani, ASC  
(in Const.P.3/24)

For CDA:

Hafiz Arfat Ahmed Ch., ASC  
Mr. Muhammad Ali Randhawa, Chairman  
CDA  
Mr. Naeem Dar, DG Law  
Mr. Irfan Azeem, Dy. DG (Environment)  
Mr. Kamran, Director, Law  
Raja Abdul Ghafoor, AOR

For MCI:

Mrs. Misbah Gulnar Sharif, ASC  
Raja Abdul Ghafoor, AOR

For M/o Defence:

Malik Javed Iqbal Wains, Addl. AG  
Brig. (R), Falak Naz, Legal Advisor  
Col. Faran Tariq, Dy. Director Military Forms  
Lt. Col. Irfan Asghar, Asstt. Director (legal)  
Zafar Mehmood, MEO

For WWF Pakistan:

Mr. Muhammad Naqi Khan, DG/CEO  
(via video link from Lahore)

For Survey of Pakistan:

Mr. Muhammad Aqib, Dy. Director

On Court's Notice:

Mr. Nabeel Rehman, ASC  
(For Capital View Restaurant)

Mr. Sikandar Bashir Mohmand, ASC  
(For Margalla Motel)

Mr. Tariq Mehmood Sajid Awan, ASC  
(For Trendy Amusement)

Mr. Khurram Mehmood Qureshi, ASC  
(For Lok Virsa)

Mr. Rizwan Shabbir Kiyani, ASC  
(For Jumper Castle in Lake View Park)

Mr. Maqbool Ahmed Chaudhry, Manager  
Admn (For Islamabad Club)

Mr. Taimoor Aslam Khan, ASC  
(For Des Pardis)

For M/o Climate Change:

Ms. Parveen Ejaz, Dy. Director.

Date of Hearing:

11.06.2024

**ORDER**

**Qazi Faez Isa, CJ.** Learned counsel Hafiz Arfat Ahmad representing the Capital Development Authority ('**CDA**') states that pursuant to order dated 21 March 2024, CDA has filed CMAs No. 3088, 3089 and 3090 of 2024. We have examined them wherein all those carrying out commercial and other activities in Islamabad are mentioned, which is not what we had sought. On the last date of hearing learned senior counsel Mr. Muhammad Makhdoom Ali Khan had stated that the owner of the petitioner Monal Group of Companies, namely, Mr. Luqman Ali Afzal has been singled out, however, others too are running restaurants in the area. Therefore, to ascertain this we had sought details about such restaurants, but CDA misunderstood or misconstrued the order and filed the said CMAs. Resultantly, notices were unnecessarily issued to all those mentioned by CDA. This case pertains to the preservation, conservation and permissible use of the Margalla Hills National Park ('**the National Park**'). Accordingly, all the said notices are discharged, except notices issued to the restaurants.

2. Learned counsel Mr. Saad Mumtaz Hashmi along with Mr. Luqman Ali Afzal states that his client is the petitioner (in CPLA Nos. 304 and 305 of 2022) and may be permitted to vacate the premises (Monal Restaurant) within three months. Learned Mr. Nabeel Rehman represents La Montana and Gloria Jeans restaurants and states that they will also vacate their premises in three months. Learned counsel further submits that CDA may give them preference in the leasing/allotting/licensing of premises/land for the running of restaurants where it is permissible, as their businesses will be affected. The Chairman CDA present in Court states that he will designate an officer to consider the request and if there are premises/land available for this purpose, and if the law permits, preference will be given to those who are voluntarily vacating restaurants from within the National Park.

3. We appreciate those who have voluntarily agreed to remove their restaurants as it will help preserve and conserve the National Park. Accordingly, three months' time is granted to all the restaurants on and around the Pir Sohawa Road in the National Park to vacate them. Small kiosks situated on or around the Pir Sohawa Road in the National Park may continue to be operated provided they are licensed by the Islamabad Wildlife Management Board ('**the Wildlife Management Board**') and strictly

abide by their terms of license, which must include collecting of all garbage generated by each and their respective customers and disposing it outside the precincts of the National Park and, if they are permitted to have a stove then they must also have a fire extinguisher.

4. Any lease, license, allotment or permission granted by CDA, or by the Remount, Veterinary and Farms Directorate (**'the Directorate'**) or any other department/authority to operate restaurants in the National Park was contrary to the provisions of the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance, 1979. Therefore, the same are declared to be of no legal effect and set aside. The petitioner in CPLAs No. 304 and 305 of 2022 is stated to have deposited in court rent/fee to which only the Wildlife Management Board could be entitled for the preservation, conservation and proper utilization of the National Park, therefore, the same shall be paid to/withdrawn by the Wildlife Management Board.

5. The Directorate is a component of the Pakistan Army, which operates under the Ministry of Defense of the Federal Government. The Directorate has no separate legal existence yet it acted as if it was a legal entity, executed the said 'Lease Agreement' dated 30 September 2019, which was countersigned by its Director-General, Maj. General Muhammad Samrez Malik. *Vide* orders dated 11 and 21 March 2024 the original record was directed to be produced by the senior most officer of the Directorate. The representative of the Directorate did not abide by the said orders, therefore, was given another opportunity to produce the original file of the Directorate by the end of the day, but still this was not done. Such intransigence will be attended to in the detailed reasons. The Legal Advisor to the Ministry of Defense, namely Brigadier (retired) Falak Naz, rather than advocating that the direction of the Court should be complied with made completely uncalled for excuses for the Directorate. It is not understandable why the Federal Government has deemed it necessary to appoint a retired Brigadier, who has demonstrated little understanding of the law, to advise it on the law. The original record of the Directorate may have disclosed who was instrumental in ordering the execution of the said 'Lease Agreement'. The conduct of the Directorate and the Legal Advisor makes us question where their loyalty lay.

6. For the proper management of the National Park, CDA shall assist the Wildlife Management Board whenever required. If an officer of CDA well conversant with conservation and environment is not already a member of the Wildlife Management Board, it would be appropriate that one is appointed as a member of the Wildlife Management Board. Moreover, since the World Wildlife Foundation Pakistan ('WWF') came forward to facilitate the preservation and protection of the National Park the Government may also consider nominating it on the Wildlife Management Board.

7. The impugned decision of the Islamabad High Court is sustained, subject to what is stated above and any clarification/amplification and direction that may be given in the detailed reasons to follow. Resultantly, all the petitions and CMAs are disposed of.

Chief Justice

Judge

Judge

Islamabad  
11.06.2024  
Rizwan, Hassan K.W.