

**JUDGMENT SHEET.**  
**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD.**

**Writ Petition No.1701 of 2020**

Ch. Tanweer Akhtar, ASC.

**Versus**

The Prime Minister of Islamic Republic of Pakistan through its Principal Secretary,  
Islamabad and 05 others.

**Writ Petition No.1774 of 2020**

Muhammad Yahya Ahmed Minhas.

**Versus**

Federation of Pakistan through the Secretary Interior, Islamabad and 05 others.

**Writ Petition No.1723 of 2020**

Khushnood Ahmad Khan.

**Versus**

The Capital Development Authority through its Chairman, Islamabad and 04 others.

Petitioner By : Ch. Tanweer Akhtar, Advocate Supreme Court/Petitioner in person and Malik Muhammad Kamran Noon, Advocate (in Writ Petition No.1701 of 2020)  
Mr. Muhammad Shafiq-ur-Rehman Dab, Advocate (in Writ Petition No.1774 of 2020).  
Mr. Khushnood Ahmad Khan, Advocate/Petitioner in person (in Writ Petition No.1723 of 2020).

Respondent By : Raja Khalid Mehmood Khan, learned Deputy Attorney-General.  
Mr. Imran Rashid, Deputy Secretary (IH) M/o Religious Affairs and Interfaith Harmony, Islamabad.  
Mr. Nobahar Ali, Advocate for the respondents/CDA.  
Mr. Ijaz Ahmad, Director Urban Planning, Capital Development Authority.  
Mr. Azhar Hussain Shah, DSP (Legal).

Date of Hearing : 06.07.2020 and 07.07.2020.

Date of Decision : 07.07.2020.

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**AAMER FAROOQ, J. –** This decision shall dispose of the instant petition as well as Writ Petition No.1774 of 2020 and Writ Petition No.1723 of 2020 as common questions of law and facts are involved.

2. In this behalf, it is pertinent to note that the instant petition as well as Writ Petition No.1774 of 2020 were heard on 06.07.2020, whereas Writ Petition No.1723 of 2020 was heard on today i.e. 07.07.2020.

3. The petitioner, in the instant petition, has challenged the allotment of plot bearing No.2, Sector H-9/2, Islamabad and construction of Temple thereon. The petitioner, in Writ Petition No.1774 of 2020, has questioned the construction of temple in Islamabad Capital Territory on the plot, in question; whereas the petitioner, in Writ Petition No.1723 of 2020, has also assailed allotment of the land for construction of temple and allocation and disbursement of funds in the sum of Rs.100 million by the Federal Government.

4. Petitioner, in Writ Petition No.1701 of 2020, *inter-alia*, contended that the plot could not have been allotted for the purposes of establishment of temple for Hindu Community in Sector H-9/2, Islamabad as there is no such allocation of land in the Master Plan of Islamabad Capital Territory. It was further contended that there is no need for construction of the temple inasmuch as the Islamabad Capital Territory has small Hindu Community and there is already a temple for the said purpose in Saidpur Village. It was further contended that in the facts and circumstances, the allotment of land is in violation of Capital Development Authority laws including Rules and Regulations.

5. Learned counsel for the petitioner, in Writ Petition No.1774 of 2020, *inter-alia*, contended that permission by the Federal Government and funding of the construction of Mandir in Islamabad Capital Territory is in violation of Article 2-A of the Constitution of Islamic Republic of Pakistan, 1973. It was further contended that no new Church or Temple or any place of worship for non-Muslims can be established in light of Hadiths on the subject.

6. Petitioner, in Writ Petition No.1723 of 2020, *inter-alia*, contended that there are already three temples in the areas of Rawalpindi and Islamabad

Capital Territory, which duly cater the needs of Hindu Community in the area. It was further contended that allocation and funding by the Federal Government for construction of Hindu Temple especially in the times of Covid-19 pandemic amounts to wasting the public money.

7. Learned counsel for Capital Development Authority, *inter-alia*, contended that land was allotted for establishment of Temple Community Center and Cremation to Institute of Hindu Panchayat (IHP) on 26.12.2017. It was submitted that in the subsector H-9/2, Islamabad graveyards of the minorities are situated on land/plot allotted by Capital Development Authority and the referred sub-sector is designated for such purposes. It was further contended that though the construction commenced but was stopped by Capital Development Authority as no formal approval of the building plan was obtained from the Competent Authority. It was reiterated that plot has not been allotted solely for Temple but the site is to include temple, community centre and place for cremation.

8. Learned Deputy Attorney General, *inter-alia*, contended that no funding has yet been disbursed by the Federal Government for the purposes of construction of temple. It was further submitted that the matter has been referred to the Council of Islamic Ideology for rendering its opinion regarding funding of money for the purposes of temple, etc, which fact was confirmed by Representative of Ministry of Religious Affairs and Interfaith Harmony. It was submitted that even otherwise there is no bar for the allottee to construct temple on its own in light of the fact that under Article 20 of the Constitution of Islamic Republic of Pakistan, 1973, the minorities are entitled to profess, practice and propagate their religion with freedom which is subject to law, public order and morality.

9. Arguments advanced by the parties have been heard and the documents placed on record examined with their able assistance. The

controversy leading to filing of the above petitions is mentioned with brevity above; hence need not be reproduced.

10. In so far as funding for the construction of Temple, Community Center and place for Cremation qua Hindu Community is concerned, the Federal Government has already referred the matter to Council of Islamic Ideology and no amount has yet been disbursed as submitted by Representative of Ministry of Religious Affairs; hence the grievance of the petitioners on the specific issue stand allayed and has become infructuous, for the time being. Moreover, the contention that financing of the project by the Federal Government to small Hindu population in the area of Islamabad Capital Territory is waste of public money also does not call for any finding as the matter, at present, has been halted.

11. The petitioner, in the instant petition, has questioned the allotment of plot on the basis that the same is not provided for in the Master Plan; the referred objection has no basis inasmuch as designated plots are not provided in the Master Plan rather a broad outline of areas for various purposes is given. It is only later that through Layout Plans and the decisions by the Capital Development Authority through its Chairman/Board that it develops Sectors and Sub-Sectors and designate plots. The representative of Capital Development Authority and learned counsel for Authority submitted that Sub-Sector H-9/2 has plots allocated for graveyard of minorities, hence on that basis the allocation was made. It seems that the allottee namely IHP did not adhere to the Rules and Regulations of Capital Development Authority by submitting building plan and seeking its approval and on the said basis the construction of plot was stopped. Even otherwise Capital Development Authority is entitled to take appropriate action in accordance with the term of the allotment (Clauses 3 and 24 of Allotment letter dated 26.12.2017) and its laws for violation of the terms of allotment, if any. The fact remains that no construction at present is taking place

at the site, in question and is unlikely to commence till compliance is made with terms of allotment and Capital Development Authority laws. As noted above, Capital Development Authority is still to approve building plan as and when the same is submitted and while doing so can holistically review the matter. It is an admitted position that no construction on any site can commence by any allottee/lessee unless it complies with the Rules and Regulations of Capital Development Authority.

12. For what has been stated above, no occasion arises for this Court to interfere; hence the above-mentioned petitions are **disposed of** accordingly. However, in future if the petitioners have any grievance in the matter they may agitate the matter again.

**(AAMER FAROOQ)**  
**JUDGE**