JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 3635 OF 2021

M/S DAWAT-E-ISLAMI TRUST

VS

THE LAND ACQUISITION COLLECTOR ISLAMABAD CAPITAL TERRITORY, ISLAMABAD, ETC

Petitioner by : Malik Jawwad Khalid, Advocate.

Respondents by : Mr. Amir Latif Gill, Advocate on behalf of CDA.
Raja Zamir Ud Din Ahmed & Mr. Sarfraz Rauf, AAG.
Taimoor Janjua, State Counsel.
Mr. Amjad Iqbal, Deputy Director (Litigation) on behalf of I.B.
Mr. Shahzad Saleem ASI, I.B.

Date of hearing : 05.03.2025

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition, the Petitioner [M/s Dawat-e-Islami Trust] has assailed the Notification No. 961/2(220)-DRA dated 06.09.2021 **("Impugned Notification")** issued by the Land Acquisition Collector, Islamabad Capital Territory, Islamabad **("Respondent No. 1")**. The Petitioner also prayed for issuance of direction to the Respondent No. 4 [Capital Development Authority **("CDA")**] to de-seal the land of the Petitioner.

2. The essential facts of the case, as outlined in the Memo of Petition, are as follows: The Petitioner is a religious, spiritual, and educational organization, actively involved in public welfare initiatives. Various projects aimed at public service are either being run or are currently under development. The Petitioner has established numerous educational institutions across Pakistan, contributing to the education of the nation's population, primarily funded by the general public. The Petitioner intends to establish an International University in District Islamabad, under the name "Dar-ul-Madina International University." This project was formally approved by the Parliament through Act No. 5 of 2013, which was published in the Gazette of Pakistan on 14.03.2013. To fulfill the Higher Education

Commission (HEC) Pakistan's requirement of securing at least 80 Kanals of compact land for the university, the Petitioner initially sought land from the Government of Pakistan. However, after a significant delay, the Petitioner arranged its own funding to purchase the required land for the university. Consequently, the Petitioner selected a compact piece of land in Mauza Tumair, Tehsil & District Islamabad, owned by Capital Insurance Company Ltd, Lahore. After successful negotiations, the purchase price was agreed upon, and on 01.04.2021, the Petitioner entered into a purchase agreement for land measuring 80 Kanals, with Khasra Nos. 5838, 5839, 5845/2, Qitas-9, Khewat Nos. 1232, 1209, 1208, 1346 to 1380, Khatooni Nos. 1916, 1917, 1918, 1968, Khewat Nos. 763 to 768, 1833, Khatooni Nos. 1185 to 1206, Khewat No. 1833, Khatooni Nos. 3105 to 1306, Khata No. 3106, Khasra Nos. 3196/5936, situated in Revenue Estate Tumair, adjacent to Simly Dam Road, Tehsil & District Islamabad, at a rate of Rs. 8,90,000/- per Kanal. The total consideration of Rs. 71,200,000/- was paid by the Petitioner, and the sale was formalized through Sale Deed No. 9064 dated 26.07.2021, registered with the office of the Sub-Registrar Islamabad. The sale deed was recorded in the Revenue Record through Mutation No. 5837, and the Petitioner's possession was duly noted in the concerned Khasra Girdawaris. Following the land purchase, the Petitioner began the process of applying for approval of the building plan for the university, which is currently underway. To secure the land, the Petitioner constructed a guardroom on the property and began erecting a boundary wall. However, officials from Respondent No. 2 intervened, halting the construction by claiming that the land had been acquired for the expansion of their Anti-Terrorism Training Centre. They provided the Impugned Notification, issued by Respondent No. 1 under Section 4 of the Land Acquisition Act, 1894 **("Land Acquisition Act")**. Aggrieved by the Impugned Notification, the Petitioner has filed the present Writ Petition.

3. The learned counsel for the Petitioner argued that the Impugned Notification was issued under the colorable exercise of power under Section 4 of the Land Acquisition Act, 1894. The learned counsel contended that the land in question has already been purchased for a public interest project, which is intended for the welfare of the public at large, while Respondents Nos. 2 & 3 are aiming to expand their Training Centre. The learned counsel emphasized that departmental interests cannot take precedence over a public interest project and, therefore, the Impugned

Notification is illegal, unlawful, and contrary to the Constitution of the Islamic Republic of Pakistan, 1973 **("Constitution")**. Further, it was pointed out that the Training Centre of Respondents Nos. 2 & 3 is situated approximately 1 km away from the Petitioner's land, and substantial *Shamilat* and Government land is available near their existing facility, which could be acquired for the expansion of the Training Centre. The Impugned Notification was issued without considering the factual situation on the ground and without taking into account that the land in question had already been purchased for the establishment of a public interest project. The learned counsel also highlighted that all matters related to the purchase of land by the Petitioner, in compliance with the requirements of the Higher Education Commission (HEC) for the establishment of a University on the land, and the approval from Parliament, were well-known to the Respondents. Despite this, Respondent No. 1 issued the Impugned Notification, which, according to the counsel, seriously prejudiced the public's right without any lawful justification. The Petitioner's project is approved by competent authorities, while the project of Respondents Nos. 2 & 3 is departmental in nature, catering to a limited number of persons. It was also argued that the project of Respondents No. 2 & 3 could be expanded at any nearby location. However, the Respondents, by using their departmental influence, are attempting to expand their project on the land designated for the University, which is impermissible under the law. The counsel further emphasized that Respondent No. 1, despite having full knowledge of the situation, issued the Impugned Notification, which is unsustainable in the eyes of law. The counsel further argued that the *malafide* intentions of the Respondents are evident, as the Impugned Notification was issued solely to provide undue advantage to Respondents Nos. 2 & 3. There is no provision under the law that justifies the issuance of a notification for land acquisition that protects departmental interests at the expense of the public's interest. The learned counsel reiterated that it is the fundamental right of every citizen, guaranteed under Articles 23 and 24 of the Constitution, to acquire, hold, and dispose of property. The Constitution provides protection against the unlawful deprivation of property, and the Impugned Notification is in direct violation of these Constitutional rights and the same is, therefore, illegal, null and void, infringing on the Petitioner's protected rights. Finally, the learned counsel submitted that the Petitioner has no other efficacious, alternative, or speedy remedy except to invoke the Constitutional jurisdiction of this Court. The counsel prayed that the instant Writ Petition be

allowed, that the Impugned Notification be set aside as being illegal, unlawful, *malafide*, null and void. Furthermore, the counsel prayed that Respondent No. 4 be directed to de-seal the Petitioner's land.

4. On the other hand, the learned State Counsel on behalf of Respondent No.1 vehemently opposed the arguments of learned counsel for the Petitioner and prayed for dismissal of instant Writ Petition as being not maintainable.

5. On behalf of Respondents Nos. 2 & 3, it is argued that the instant Writ Petition is not maintainable under the law and facts as no relief has been claimed against Respondents No. 2 & 3; that the instant Writ Petition does not disclose any cause of action against the Respondents Nos. 2 & 3, hence liable to be dismissed; that the Petitioner has no locus *standi* for the present Petition; that the Anti-Terrorist Training School (ATTS) Simly, Islamabad being the oldest Anti-Terrorism Training institute in the country, was established in 1984 under Federal Security Cell, Ministry of Interior till 1989 when it was handed over to Intelligence Bureau; that the School is not solely meant for IB personnel but it also caters to the needs of different organizations i.e. Civil Armed Forces, Navy, Air Force, Airport Security Force, Rangers, Strategic Plans Division setups, Police Anti-Terrorism Squad, Prime Minister / President Protection Squads, National Assembly Protocol Staff and Defense Security Guard (DSG); that a number of firing ranges, including a Long Range firing range, were established after requisite calibration by Special Services Group of Pak Army Officers in early 80s and since then the ranges are operational in that area; that no other facility of Long Range Firing is available in Federal Capital and adjoining Districts, hence, the facility is not only used internally for training of ATS Commandos but it caters to rising demands of Rangers, Police, DSG, ISI etc. quite frequently; that since its establishment, ATTS Simly has conducted 71 Basic ATS Courses as well as 51 VVIP Protection Courses so far, imparting specialized training to more than 14 thousand officers /officials of all the aforementioned forces. ATS qualified commandos of ATTS, Simly School have rendered exemplary services in war against terror, earned gallantry awards and many sacrificed their lives for security of their motherland; that in order to meet daunting challenges of Counter Terrorism, to cater to the training needs of the trainees and to provide security to CPEC projects, expansion of ATTS Simly was deliberated in consultation with Chinese dignitaries, hence,

making it integral part of CPEC; that accordingly, a PC-I was finalized for expansion/upgradation of the school which can be presented before the Honorable Bench for perusal in-camera; that the School did not forcibly occupy an inch of land, rather law of the land was adhered to; that accordingly the Office of the Deputy Commissioner, ICT was requested for acquisition of 90 Kanals and 19 Marlas area under the Land Acquisition Act whereas the Chairman, CDA was requested for procurement of 436 Kanals land under CDA Ordinance, 1960; that the private lands fall in line of fire of the School's Long Range Firing range; that the School had no problem earlier in using these ranges as the adjoining areas were free from any encumbrance, however, the same are now required to be acquired for upgradation of the School and for public safety; and that the instant Writ Petition being devoid of merits may kindly be dismissed.

6. The learned counsel appearing on behalf of Respondent No. 4 argued that CDA has jurisdiction to acquire and develop land within the limits of ICT; that the land is acquired through phased master program according to master plan of Islamabad; that there is still reasonable land which has not yet been acquired; that Federal Government has also established Federal Government Employees Housing Authority, empowered to acquire land under Land Acquisition Act; that the Petitioner has no cause of action against the Respondent No. 4/CDA because the land was acquired by the Collector as per Land Acquisition Act; that CDA only issued No Objection Certificate, on 20.08.2002, whereas the land was not acquired as per CDA Ordinance, hence the Petitioner has no cause of action against the CDA; that Respondent No.1 is a relevant authority to assist the Court on mode and procedure, if any, wrong is committed; that CDA through Director Land and Rehabilitation has only intimated that CDA has no objection for acquisition of land by ICT District Administration under Section (4) of Land Acquisition Act for Anti-Terrorist Training School (ATTS) Simly falling in Zone 4 (Sub Zone-D) Islamabad measuring 90 Kanals and 90 Marlas, however, the acquired land shall be utilized in accordance with the provisions of Master Plan of Islamabad; that prior approval is mandatory for any construction on the subject land; that the instant Petition is neither maintainable nor proceedable under the law; that the present Petition has been filed just to blackmail, pressurize and use it as a bargaining chip against the Respondent No. 4; that the Petitioner has suppressed material facts from this Court, hence, the discretionary relief prayed for cannot be granted; that the Petition is

false, frivolous and vexatious, hence, merits dismissal; that the Petitioner has not come to the Court with clean hands, hence, not entitled for any relief; and that the instant Writ Petition may kindly be dismissed to the extent of Respondent No. 4.

7. I have heard the learned counsel for the parties and have also perused the record with their able assistance.

8. The Petitioner has challenged the Impugned Notification issued under Section 4 of the Land Acquisition Act vide which Respondent No. 4, intimated for acquiring land situated in Mouza Tumair, Islamabad for Respondents No. 2 & 3. For ready reference, Section 4 of the Land Acquisition Act is reproduced here as under: -

> ***4. Publication of preliminary notification and powers of officers thereupon.*** *___ **[(1)** Whenever it appears to the Collector of the district that land in any locality is needed or is likely to be needed for any public purpose or for a Company, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.]*
>
> ***(2)** Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,---*
>
> > *to enter upon and survey and take levels of any land in such locality;*
> >
> > *to dig or bore into the subsoil;*
> >
> > *to do all other acts necessary to ascertain whether the land is adapted for such purpose;*
> >
> > *to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;*
> >
> > *to mark such levels, boundaries and line by placing marks and cutting trenches; and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:*
> >
> > *Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so*

[Provided further that entire process of land acquisition shall be completed within a period of one year failing which the notification made under sub-section (1) shall stand revoked.].

*[**(3)** The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the district, and such decision shall be final."*

9. As appears from the record and not denied by the acquiring agency that the land was acquired for expansion of Anti-Terrorism Training School (ATTS) Simly. The question before this Court is as to whether the land can be acquired for the said purpose or not. The preamble of the land Acquisition Act which is key to open the statute, is self-explanatory and conveniently states that the land can only be acquired for public purpose and for companies. The preamble is reproduced as under:-

"Whereas it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of Compensation to be made on account of such acquisition."

10. In view of above, it can easily be held, that the land can only be acquired for public purpose and for companies, whereas, in this case, the Respondent No. 1/Land Acquisition Collector, Islamabad issued the Impugned Notification under Section 4 of the Land Acquisition Act for the acquisition of 90 Kanal 19 Marlas of land in Khasra Nos. 5837 to 5843, 5844/2, 5845/2, 5846, 5847/2, 5848, 5849, 5859, 5860 to 5862 in Mouza Tumair, Tehsil & District, Islamabad, for the expansion of existing Anti-Terrorism Training School. As per the afore noted provisions of the Land Acquisition Act, the land can be acquired for the public purpose or a company meaning thereby the land can only be acquired by the Respondent No. 1/Land Acquisition Collector for public purpose and for a company duly registered under the law.

11. Now the question before this Court is that as to whether the said acquisition is required for public purpose and the Anti-Terrorism Training School is a company or not. The purpose of Anti-Terrorism Training School as mentioned in the comments of Respondents No.2 & 3 is that the School imparts training to the IB personnel, it also caters to the needs of different organizations i.e. Civil Armed Forces, Navy, Air Force, Airport Security Force, Rangers, Strategic Plans Division setups, Police Anti-Terrorism Squad, Prime Minister/President Protection Squads,

National Assembly Protocol Staff and Defense Security Guard (DSG). Moreover, number of firing ranges, including a Long firing range, were established after requisite calibration by Special Services Group of Pak Army Officers in early 80s and since then the ranges are operational in that area; that no other facility of Long Range Firing is available in Federal Capital and adjoining districts, hence, the facility is not only used internally for training of ATS Commandos but it caters to rising demands of Rangers, Police, DSG, ISI etc., quite frequently.

12. According to Black's Law Dictionary 8th Edition, the word "public purpose" is defined as *"an action by or at the direction of a government for the benefit of the community as a whole"*. In the present case, the Anti-Terrorism Training School is providing services of specialized trainings to law enforcement agencies and as such, it cannot be construed that the purpose of expansion of the said school can be termed as public purpose in *stricto senso*. But if the same is considered on a larger canvas, it indeed amounts to serve public purpose and if our law enforcement agencies are properly trained in specialized fields, then these agencies will be able to protect the lives of the general public. Thus, in my humble view, the purpose for which land is required, will amount to public purpose. If a housing society is termed as public purpose in the light of judgment of august Supreme Court cited as *Federal Government Employees Housing Foundation (FGEHF) Islamabad versus Malik Ghulam Mustafa,* **2021 SCMR 201**, then specialized Training School's expansion will also come under the ambit of "public purpose" as our law enforcement agencies serves the purpose of securing the lives and properties of general public, hence, it can be safely said that the Respondent No. 1/Land Acquisition Collector is acquiring the land under the Land Acquisition Act. Anti-Terrorism Training School is a Government organization and is a specialized training school run by Government and for its expansion, land adjacent to the existing Training School is required.

13. For the acquisition of the land for the said purpose, No Objection Certificate was obtained from the CDA as required under CDA Ordinance, 1960 and the Land Respondent No. 1/Acquisition Collector issued the Impugned Notification in this regard. According to Sections 11 & 12 of the CDA Ordinance, 1960, necessary permission is required for acquiring land within the Islamabad Capital Territory. For ready reference, Sections 11 & 12 of the Ordinance *ibid* are reproduced hereunder: -

*"**11. Master-plan and master programme.**—The Authority shall prepare a master-plan and a phased master-programme for the development of the Capital Site, and may prepare a similar plan and programme for the rest of the Specified Areas, and all such plans and programmes shall be submitted to the [Federal Government] for approval.*

***12. Preparation of schemes by local bodies or agencies.— (1)** The Authority may, pursuant to the master plan and the master-programme, call upon any local body or agency operating in the Specified Areas to prepare, in consultation with the Authority, a scheme or schemes in respect of matters ordinarily dealt with by such local body or agency, and thereupon the local body or agency shall be responsible for the preparation of the scheme or schemes within a reasonable time.*

***(2)** Such schemes, may relate to—*

- ***(a)** land use, zoning and land reservation;*
- ***(b)** public buildings;*
- ***(c)** industry;*
- ***(d)** transportation and communications; highway, roads, streets, railways, aerodromes;*
- ***(e)** tele-communications, including wireless, television, radio, telephone;*
- ***(f)** utilization of water, power and other natural resources;*
- ***(g)** community planning, housing, slum clearance, amelioration;*
- ***(h)** community facilities including water supply, sewerage, drainage, sewage disposal, electricity supply, gas supply and other public utilities;*
- ***(i)** preservation of objects or places of historical or scientific interest or natural beauty.*

***(3)** The [Federal Government] may, by notification in the official Gazette, add to, alter or amend the list of subjects given in sub-section (2), and any such addition, alteration or modification shall take effect as if it had been enacted in this Ordinance.*

***(4)** The expenditure incurred on the preparation of any such schemes as aforesaid shall be borne as agreed to between the Authority and the local body or agency, and in the event of disagreement between them as may be determined by the [Federal Government].*

***(5)** No planning or development scheme shall be prepared by any person or by any local body or agency except with the concurrence of the Authority."*

14. In view of the foregoing discussion, the purpose for which the Impugned Notification was issued is a public purpose as required by the Government, hence, the Impugned Notification is lawful and justified. As a result, the present Writ Petition, being without merit and misconceived, is hereby **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the Open Court on 7th day of April 2025.

JUDGE

--/Mehboob/--