Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD (JUDICIAL DEPARTMENT)

W.P. No.1244/2022

Moulvi Iqbal Haider

Versus

Federation of Pakistan and others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	11-04-2022	Petitioner (Molvi Iqbal Haider, Advocate) in person.

Athar Minallah, C.J.- Moulvi Iqbal Haider is an enrolled advocate and he has invoked the jurisdiction of the Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (*hereinafter referred to as the* ***'Constitution'***). He has sought directions to the Federal Government for probing the contents of the cable sent by the Ambassador of Pakistan in the United States of America to the Ministry of Foreign Affairs, Government of Pakistan. He has also sought a direction for initiating proceedings under the High Treason (Punishment) Act, 1973 against Mr Imran Khan, former Prime Minister, Mr Fawad Chaudhry, former Federal Minister and the Ambassador of Pakistan in the United States of America.

In addition he has prayed that their names be ordered to be placed on the Exit Control List.

2. The petitioner has appeared and has been heard. He has claimed that the treason case against General (Retd) Pervaiz Musharraf was initiated pursuant to acceptance of his petition.

3. It is settled law that matters relating to foreign affairs of the country are extremely sensitive and, therefore, not justiciable while exercising extra ordinary jurisdiction under Article 199 of the Constitution. The assertions made in the memorandum of the petition are vague and they are not supported by any credible material so as to justify making of a diplomatic cable as the subject of the litigation in hand.

4. It is surprising because despite being an enrolled and able advocate, it appears that the petitioner probably does not appreciate the importance, sanctity and sensitive nature of a diplomatic cable sent by Pakistani diplomats from the respective countries where they have been posted. The diplomatic cables are of immense importance and have a limited access. They are classified because they enable the Pakistani diplomats to write

assessments and analysis uninhabited including disclosing rare things. The diplomats have the assurance that their reporting and assessments would be fully protected and shall not be sensationalized nor politicized.

5. It is a fundamental duty of every diplomat across the globe to share their assessments, analysis and conclusions with the respective countries that they represent. Such assessments and analysis are invariably based on informal conversations with officials of the host governments. Every diplomat of Pakistan is expected to faithfully and honestly convey what he or she may hear or see. Keeping in view the nature of the diplomatic cables and the need to keep them confidential, it is definitely not in public interest nor in the interest of integrity of the State to make the cables subject of political controversies or litigation. This is likely to have profound consequences for the functioning of the foreign office because it would discourage diplomats from candid, faithful and honest reporting besides undermining the integrity of the communication systems available to them as tools for performing their onerous functions. By making diplomatic cables the subject of political debate or litigation definitely impacts the credibility, reliability and effectiveness of the working of the foreign office. Bringing sensitive and

informal diplomatic conversations into public domain is likely to harm the image of Pakistan and its foreign policy. It is, therefore, contrary to public interest and national security to make diplomatic cables controversial.

6. The cable referred to in the petition was sent by a diplomat who is known for his outstanding professionalism and competence. It was placed before the National Security Committee. It appears that the latter was satisfied that no probe was required. Such sensitive and complex matters ought to be dealt with by the foreign office of Pakistan, rather making them controversial through litigation.

7. It is ironic that an enrolled and responsible advocate is alleging treason against a former elected Prime Minister of Pakistan and seeking a direction for initiation of proceedings against him. The rhetoric of treason is deprecated. No citizen can claim to be more patriotic than the other. Likewise no citizen has the right to declare others as having committed treason. Every citizen is presumed to be patriotic and loyal to the State unless otherwise declared by a competent court of law.

8. The allegations and assertions made against a former elected Prime Minister in the memorandum of the petition are deprecated. Moreover, making the cable sent by a diplomat of Pakistan controversial and subject of litigation is against public interest and the interests of the State. It is an onerous duty of every citizen to ensure that sensitive national security issues are not sensationalized nor politicized. Dragging the diplomats and their classified reporting and assessments into political controversies could undermine Pakistan's national interests, its diplomacy and external relations.

9. For the above reasons, the Court is satisfied that the petition is frivolous and the petitioner has unjustifiably attempted to make the cable controversial. The petition is, therefore, **dismissed** and a cost of Rs.100,000/- (rupees one hundred thousand) is imposed on the petitioner. The cost is ordered to be deposited with the Deputy Registrar (Judicial) of the Court within fifteen days from the date of receiving a certified copy of this order. The amount shall thereafter be deposited in the account maintained for payment of fee at State expense.

(CHIEF JUSTICE)

Luqman Khan/*