Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD (JUDICIAL DEPARTMENT)

W.P. No.1113/2019

Asia alias Ravina & 3 others

Versus

Ministry of Interior & 7 others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
02	02-04-2019	Mr Muhammad Umair Baloch, Rao Abdul Raheem, Qazi Adil Aziz, Mirza Waqas Qayyum, Advocates for petitioners. Mr Usman Saeed Basra, Mr Gulbaz Mushtaq, Mr Iftikhar Ahmed Cheema, Advocates for respondent no.6. Mr Saif Ullah Gondal, Assistant Attorney General. Ms Bushra Iqbal Rao, Assistant Commissioner (Shalimar), Islamabad Capital Territory. Ms Romana, Law Officer, Ministry of Human Rights. Ms Khawar Mumtaz, Chairman, National Commission on the status of Women. Mr M. Hassan Mangi, Director General, Ministry of Human Rights. Dr Ramesh Kumar, MNA, Patron-in-chief, Pakistan Hindu Council. Mr Farhan Ahmed, Section Officer, Ministry of Interior. Mr Rafique Ahmed Buriro, Commissioner, Sukkur Division.

In response to order, dated 26-03-2019, Farhan Ahmed, Section Officer, Ministry of Interior and Mr Hassan Mangi, Director General, Ministry of Human Rights have appeared on behalf of the Federal Government. They did not appear to be aware of any inquiry being conducted pursuant to orders given by the Prime Minister of Pakistan. The Secretary, Ministry of Interior has not submitted a report in compliance with the direction given vide

clause (f) of paragraph 6 of order, dated 26-03-2019. On behalf of the Government of Sindh, Rafique Ahmed Buriro, Commissioner Sukkur Division has appeared. He submitted a report signed by the Chief Secretary, Sindh. The said report has been made part of the record. The report has been perused but it has not been found to be satisfactory. Mr Rafique Ahmed Buriro, Commissioner Sukkur Division could not give a satisfactory explanation as to why the impression of alleged conversion and marriage of minors is restricted to his area of jurisdiction. He could also not explain as to why the Government of Sindh has not taken effective steps to dispel this impression. Likewise, the response of the Federal Government is also not what was expected. The officials representing the Federal Government were not aware of the directions given by the august Supreme Court in the judgment reported as PLD 2014 SC 699 in the case of *"S.M.C. No.1 of 2014 titled Suo Motu actions regarding suicide bomb attack of 22-9-2013 on the Church in Peshawar and regarding threats being given to Kalash tribe and Ismailies in Chitral"*. The relevant portion is reproduced as follows.-

> *"37. For what has been discussed above, we hold, declare and direct:--*

(i) the Federal Government should constitute a taskforce tasked with developing a strategy of religious tolerance;

(ii) appropriate curricula be developed at school and college levels to promote a culture of religious and social tolerance. In 1981 in one of its seminal declarations, the United Nations resolved that "the child shall be protected from any form of discrimination on the grounds of religion or belief. He shall be brought up in the spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men." (UN Declaration on the Elimination on All Forms of Intolerance and of Discrimination Based on Religion or Belief)

(iii) the Federal Government should take appropriate steps to ensure that hate speeches in social media are discouraged and the delinquents are brought to justice under the law;

(iv) a National Council for minorities' rights be constituted. The function of the said Council should inter alia be to monitor the practical realization of the rights and safeguards provided to the minorities under the Constitution and law. The Council should also be mandated to frame policy recommendations for safeguarding and protecting minorities' rights by the Provincial and Federal Government;

(v) A Special Police Force be established with professional training to protect the places of worship of minorities.

(vi) In view of the statement made by learned Attorney General for Pakistan and learned Additional Advocate Generals of Punjab, KPK and Balochistan regarding reservation of quota for minorities in the federal and provincial

services, it is directed that the Federal Government and all Provincial Governments shall ensure the enforcement of the relevant policy directives regarding reservation of quota for minorities in all services.

(vii) in all cases of violation of any of the rights guaranteed under the law or desecration of the places of worship of minorities, the concerned Law Enforcing Agencies should promptly take action including the registration of criminal cases against the delinquents.

(viii) The office shall open a separate file to be placed before a three Members Bench to ensure that this judgment is given effect to in letter and spirit and the said Bench may also entertain complaints/ petitions relatable to violation of Fundamental Rights of minorities in the country."

2. *Ms Shireen Mazari*, Federal Minister for Human Rights has submitted a written report, dated 29-03-2019. This Court records its appreciation for the efforts made by her in trying to ascertain the facts. Perusal of her report shows that the matter at hand is required to be dealt with in a transparent manner.

3. It is noted that the rights of minorities are not only to be protected but ought to be seen as protected. The instant case has raised controversies relating to protection of rights of the minorities. It is one of the most important constitutional duties of the Federal Government as well as the Provincial Government to demonstrate through its conduct and

actions that rights of the minorities are protected. It is their duty to dispel any impression regarding the alleged forced conversions, particularly in the area of Sukkur Division.

4. This Court has received statements of the two petitioners, namely, *Asia alias Ravina and Nadia alias Reena* which were recorded under section 164 of the Code of Criminal Procedure, 1898. Likewise, reports relating to medical examination have also been submitted. Keeping in view the controversies, which have arisen in the instant matter, particularly the fundamental rights of the minorities and their protection, suggestions were sought from the learned Counsels. Taking a fair stance, they have stated that the matter must be enquired and probed in a transparent manner in order to dispel the false impression. They stated that a Commission could be appointed for determining whether the two petitioner sisters had acted out of free will and without being influenced or under coercion.

5. In view of the above, it is directed as follows.-

a) A Commission consisting of Ms Shireen Mazari, Federal Minister for Human Rights, Government of Pakistan, Mufti

Muhammad Taqi Usmani, former Judge of the Shariate Appellate Bench of the Hon'ble Supreme Court, Ms Khawar Mumtaz, Chairperson of the National Commission on the Status of Woman, Dr Mehdi Hassan, Human Rights Commission of Pakistan and Mr I.A. Rehman, Human Rights Commission of Pakistan, is constituted.

b) The Secretary, Ministry of Interior will act as Secretary of the Commission. The latter will forthwith co-ordinate with all the Members of the Commission and facilitate its meetings and proceedings.

c) The Commission after meeting the petitioners and other concerned persons will record its opinion by submitting an interim report before the next date fixed, inter alia, highlighting whether the two petitioner sisters are free from any pressure whatsoever and that their statements were not given as a result of some undue influence.

d) The Commission will further probe into the impression of alleged forced

conversion in Sukkur Division and insecurity, if any, on part of the minorities and submit a report, preferably within four weeks.

e) The Federal Government and the Sindh Government will facilitate the Commission in its proceedings. The Commission shall be at liberty to co-opt any person at any stage in order to achieve its object.

f) The Federal Government will constitute a Medical Board consisting of senior medical specialists of Pakistan Institute of Medical Sciences, Islamabad. The Medical Board so constituted, will examine the two petitioner sisters and record its opinion regarding their age and mental status.

g) The Federal Government through the Secretary, Ministry of Interior will submit a report before the next date fixed regarding status of implementation of the directions given by the august Supreme Court, which have been reproduced above.

h) Till the next date fixed, the arrangements directed vide order, dated 26-03-2019, relating to the two petitioner sisters will continue. The incharge Magistrate will ensure that no one attempts to influence them during their stay at the Crisis Centre.

6. The office is directed to send copies of this order to the Secretary, Ministry of Interior, Secretary, Ministry of Health, Government of Pakistan, Chief Secretary, Government of Sindh. The Secretary, Ministry of Interior is further directed to forthwith co-ordinate with the above named Members of the Commission and facilitate their meeting at the earliest.

7. This petition is directed to be fixed on 11-04-2019 and will be taken up for hearing at 10:30 a.m. The Secretary, Ministry of Interior and the Chief Secretary, Government of Sindh or a senior officer authorized by him, will appear to inform this Court regarding the stance of their respective Governments and the measures taken to dispel the impression of alleged forced conversions. The former will also submit copy of report relating

to the enquiry ordered by the Prime Minister of Pakistan in the instant matter.

(CHIEF JUSTICE)

Luqman Khan/*

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