Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

W.P. No. 2407 of 2020

Ms. Asmat Begum
Vs.
Federation of Pakistan, through Secretary M/O Defence etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	17-09-2020.	M/s Muhammad Shoaib Shaheen, Muhammad Zafar Khokhar, Sardar Shabir Hussain, Abdul Wahid Qureshi, Muhammad Khowkab Iqbal, Karim Nawaz Abbasi, Chaudhry Amjad Ali, Zafar Mahmood Mughal, Ahmad Shahzad Awan, Mian Ghaffar Rakhshanda Younas, Imran Shaukat Rao, Saim ul Haq Satti, Yasir Latif Hamdani, Muhammad Haider Imtiaz Advocates, for the petitioners, in their respective petitions. Mr Tariq Mehmood Khokhar, Additional Attorney General. Mr Niaz Ullah Khan Niazi, Advocate General Islamabad. Syed Muhammad Tayyab, Deputy Attorney General. Mr Muhammad Nadeem Khan Khakwani, AAG. Mr Qaiser Masood, Additional Director Law FIA. Mr Farooq Anjum, SP Rural. Malik Naeem, PSP. Khalid Mehmood Khan, D.S. M/O Interior. Ms Shahida Sukhera Advocate, for respondent i.e. M/O Human Rights. Mr Azhar Hussain Shah, DSP Legal. Mr Shafiq Ahmed, SHO P.S. Shahzad Town. Mr Naseem Ahmed Shah Advocate, for ICT Administration.

Mr Tariq Mehmood Khokhar, learned Additional Attorney General has informed that Ms Asmat Begum's son namely, Muhammad Sajid Gondal has returned and that investigations

are in progress. The leaned counsel for the petitioner is also not in attendance.

2. The learned Additional Attorney General has further informed that pursuant to order, dated 07.09.2020 a detailed briefing was given to the worthy Prime Minister and members of the Federal Cabinet in the meeting held on 08.09.2020. The Federal Cabinet decided in the said meeting to probe the alleged abductions from the area of Islamabad Capital Territory. Pursuant to the said decision a committee has been duly notified.

3. The Secretary, Ministry of Interior is not present. The learned Additional Attorney General could not give a satisfactory explanation regarding other directions given by this Court. The abysmal law and order situation in the Capital of Pakistan is intolerable. As noted by this Court in its order, dated 07.09.2020, that fundamental rights of the ordinary citizens are being violated and their confidence in the criminal justice system is being eroded. Land related crimes, such as land grabbing, have become an unchecked widespread phenomenon and shockingly, Ministries/ departments and State entities are allegedly involved. They are engaged in the illegal real estate business. This raises a serious question of conflict of interest. The powerful elites are responsible for erosion of rule of law. Those public functionaries who have been entrusted with the onerous task of protecting the fundamental rights of citizens, in breach of their fiduciary duty that they owe to the people, are themselves allegedly, directly or indirectly, involved in

perpetration of crime and erosion of rule of law. This obviously has a profound effect and appears to be a major factor in erosion of rule of law and failure of the State to protect its citizens. This impunity against crime and violation of fundamental rights is intolerable in a State governed under the Constitution.

4. It has been noted in the order, dated 07.09.2020, that the abysmal state of governance within 1400 square miles of Islamabad Capital Territory has not happened overnight but it is an outcome of the past many decades of misgovernance by elected as well as unelected governments. On the basis of the reports submitted in the connected petitions and otherwise consistently observed, this Court has no hesitation in stating that the State machinery has failed to protect the ordinary citizens while the public functionaries appear to be helpless before the elite and the privileged. It is the duty of the State to restore the confidence of the ordinary citizens by restoring rule of law and treating every citizen equally.

5. The report submitted by the Inspector General of Police in the connected petitions is an unambiguous acknowledgement of lack of ability of the State to apprehend, investigate and prosecute alleged criminals. The deterrence against crime in the society is not because of the form or severity of the sentence but it is ensured due to effectiveness of policing, investigations and prosecution. Rule of law is the only deterrence against crime. The trial courts are dependent solely on the quality of investigations and prosecution. Regrettably the reports placed

on record speaks volumes for a system that has been corrupted and is at the brink of collapse. The Police Order, 2002 has been enforced but appears to be resisted by some quarters. The Chief Commissioner, Islamabad Capital Territory has been repeatedly directed to establish the prosecution branch but to no avail. The ordinary citizens i.e. the actual stakeholders are suffering and their constitutional rights are being flagrantly violated. This constitutional Court cannot turn a blind eye to the failure of the public functionaries to protect the citizens. The directions given by this Court vide judgment, dated 14-03-2020, passed in W.P. No. 4037/2019, have also not been complied with despite lapse of considerable time.

6. This Court has been informed that Mr Shahzad Akbar has been appointed by the worthy Prime Minister to advise him on matters relating to the Ministry of Interior. He is a member of this Bar and his functions obviously, inter-alia, includes advising the Prime Minister on the abysmal state of governance and criminal justice system within 1400 square miles of Islamabad Capital Territory. The learned Additional Attorney General is expected to brief the Advisor regarding the questions raised in the connected petitions. Mr Shahzad Akbar, Advisor to Prime Minister on matters relating to Ministry of Interior is directed to appear at 1:00 p.m. on 21.09.2020 and explain whether any advice has been tendered to the worthy Prime Minister regarding the deplorable law and order situation in the Capital of Pakistan and security of ordinary citizens.

7. The Inspector General of Police and the Chief Commissioner, Islamabad Capital Territory or the Deputy Commissioner are also directed to appear. The office is directed to send notices to the Vice Chairman, Islamabad Bar Council and President, Islamabad High Court Bar Association for assistance. Copies of this order are directed to be communicated to the above officials.

8. Relist, on 21.09.2020. The petitions will be taken up at 1:00 p.m.

(CHIEF JUSTICE)

Tanveer Ahmed/*
17-09-2020.