

**JUDGMENT SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.**

C.P. Nos. D-709, 710, 711, 714, 718, 719, 720, 721, 722, 723, 724, 727, 731, 735, 736, 737, 738, 739, 740, 741, 742, 748, 749, 750, 751, 752, 753, 754, 755, 761, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 778, 779, 780, 782, 783, 784, 785, 786, 787, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1006, 1007, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1019, 1020, 1022, 1023, 1024, 1025, 1026, 1027, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1041 of 2019.

*Present:-*

***Mr. Justice Muhammad Iqbal Kalhoro,  
Mr. Justice Fahim Ahmed Siddiqui***

Date of hearing: 02.05.2019

Date of Decision: 02.05.2019

Mr. Imdad Hussain A.Shahani advocate for petitioner in C.P No.D-709 of 2019.

Mr. Sanaullah Thatial advocate for petitioner in C.P No.D-710 & 714 of 2019.

Mr. Mumtaz Ahmed Lashari advocate for petitioner in C.P No.D-711 & 775 of 2019.

Mr. Mumtaz Ali Zardari advocate for petitioner in C.P No.D-718, 719 & 720 of 2019.

Mr. Karim Bux Rind advocate for petitioner in C.P No.D-721, 722, 723, 724, 727, 862, 863, 928, 930, 931, 932, 933, 987, 993, 994, 995, 996, 998, 999, 1000, 1001, 1002, 1003 & 1004 of 2019.

Mr. Junaid Jabbar Belaie advocate for petitioner in C.P No.D-731 of 2019.

Mr. Aijaz Ali Bhutto advocate for petitioner in C.P No.D-735, 736, 753, 771, 773 & 963 of 2019.

Mr. Ghulam Farooq Dahri advocate for petitioner in C.P No.D-737 of 2019.

Mr. Mumtaz Ali Soomro advocate for petitioner in C.P No.D-738 of 2019.

Mr. Niaz Hussain Leghari advocate for petitioner in C.P No.D-739, 740, 741, 742 & 914 of 2019.

Mr. Shaikh Jawaid Ali advocate for petitioner in C.P No.D-748 & 755 of 2019.

Mr. Mohammad Akhtar Bhatti advocate for petitioner in C.P No.D-749 & 750 of 2019.

Mr. Zulfiqar Ali Chandio advocate for petitioner in C.P No.D-751 of 2019.

Mr. Roshan Ali Azeem Mallah advocate for petitioner in C.P No.D-752 of 2019.

Mr. Jehanzeb Ali Dahri advocate for petitioner in C.P No.D-754 of 2019.

Mr. Altaf Hussain Chandio advocate for petitioner in C.P No.D-761 of 2019.

Mr. Fakhur din Dahraj advocate for petitioner in C.P No.D-763 & 774 of 2019.

Mr. Meer M.Buriro advocate for petitioner in C.P No.D-764 of 2019.

Mr. Muzaffar Ali Laghari advocate for petitioner in C.P No.D-765, 867, 881, 916 & 917 of 2019.

Mr. Mazhar Ali Laghari advocate for petitioner in C.P No.D- 884, 885 & 1014 of 2019.

Mr. Mohammad Hassan Chandio advocate for petitioner in C.P No.D-767, 768, 769, 770, 808, 809, 810, 811, 812, 813, 849 856, 857, 858, 915, 1010, 1036 & 1037 of 2019.

Mr. Muhammad Sachal R. Awan advocate for petitioner in C.P No.D-772, 787 & 798 of 2019.

Mr. Riaz Ahmed Siddiqui advocate for petitioner in C.P No.D-776 of 2019.

Mr. Mir Mal Oad advocate for petitioner in C.P No.D-778 of 2019.

Mr. Khalil Ahmed Unar advocate for petitioner in C.P No.D-779 of 2019.

Mr. Mian Taj Muhammad Keerio advocate for petitioner in C.P No.D-780, 817, 980 & 1038 of 2019.

Mr. Muntazir Mehdi Leghari advocate for petitioner in C.P No.D-782 & 785 of 2019.

Mr. Mohammad Iqbal Hingoro advocate for petitioner in C.P No.D-783, 890 & 982 of 2019.

Mr. Waqar Ali Leghari advocate for petitioner in C.P No.D-784 of 2019.

Mr. Mohsin Raza Gopang advocate for petitioner in C.P No.D-789 of 2019.

Syed Iftikhar Hussain Shah advocate for petitioner in C.P No.D-790, 791 & 792 of 2019.

Mr. Bhagchand Bheel advocate for petitioner in C.P No.D-793, 794 & 795 of 2019.

Mr. Imdad Ali Dahri advocate for petitioner in C.P No.D-796 of 2019.

Mr. Aghis-u-Salam Tahirzada advocate for petitioner in C.P No.D-797, 886, 887, 888, 910, 939, 940 & 953 of 2019.

Mr. Mashooque Ali Mahar advocate for petitioner in C.P No.D-799 of 2019.

Mr. Abdul Razzak Dasti advocate for petitioner in C.P No.D-800 of 2019.

Syed Sajjad Ali Shah advocate for petitioner in C.P No.D-801 of 2019.

Mr. Zulfiqar Ali Chang advocate for petitioner in C.P No.D-802 of 2019.

Mr. Ahsan Gul Dahri advocate for petitioner in C.P No.D-814 & 815 of 2019.

Mr. Hameedullah Dahri advocate for petitioner in C.P No.D-816 of 2019.

Mr. G.M. Leghari advocate for petitioner in C.P No.D-818 of 2019.

Mr. Muhammad Yousif Kalhoro advocate for petitioner in C.P No.D-819, 822, 823, 824 & 908 of 2019.

Mr. Abdullah Khan Leghari advocate for petitioner in C.P No.D-820 of 2019.

Mr. Sajid Ali Gorar advocate for petitioner in C.P No.D-821 of 2019.

Mr. Sikandar Ali Khaskheli advocate for petitioner in C.P No.D-825, 826 & 827 of 2019.

Mr. Moula Bux Narejo advocate for petitioner in C.P No.D-846 & 847 of 2019.

Mr. Muhammad Hussain Khan advocate for petitioner in C.P No.D-848 & 951 of 2019.

Mr. Qadir Bux Ghirano advocate for petitioner in C.P No.D-850 & 854 of 2019.

Miss. Najma Lakho advocate for petitioner in C.P No.D-851 & 860 of 2019.

Mr. Suleman Dahri advocate for petitioner in C.P No.D-852 of 2019.

Mr. Hemandas S. Sanghani advocate for petitioner in C.P No.D-853 of 2019.

Mr. Zuhaib Hassan Pahore advocate for petitioner in C.P No.D-855 of 2019.

Mr. MB @ Nouman Sahito advocate for petitioner in C.P No.D-859, 861, 892, 906, 954, 955, 956 & 958 of 2019.

Mr. Waqar Ali Zaur advocate for petitioner in C.P No.D-864 & 865 of 2019.

Mr. Niaz Mohammad Hingoro advocate for petitioner in C.P No.D-866 & 912 of 2019.

Mr. Muhammad Sadique Buledi advocate for petitioner in C.P No.D-868 of 2019.

Mr. Mohammad Asif Zai advocate for petitioner in C.P No.D-869 of 2019.

Mr. Shahnawaz Janjhi advocate for petitioner in C.P No.D-870 & 871 of 2019.

Mr. Kanji Mal Meghwar advocate for petitioner in C.P No.D-872, 873, 874, 875, 876, 877, 878 & 879 of 2019.

Mr. Muhammad Aslam Khan advocate for petitioner in C.P No.D-880 of 2019.

Mr. Jawaid Ali Buriro advocate for petitioner in C.P No.D-882 of 2019.

Mr. Abdul Mueed Shaikh advocate for petitioner in C.P No.D-883, 899, 966, 984, 986, 991 & 992 of 2019.

Mr. Omparkash H.Karmani advocate for petitioner in C.P No.D-889 & 900 of 2019.

Mr. Ashar Majeed Khokhar advocate for petitioner in C.P No.D-891, 985 & 989 of 2019.

Mr. Ghulam Murtaza Shaikh advocate for petitioner in C.P No.D-893 of 2019.

Mr. Muhammad Anwar Sangi advocate for petitioner in C.P No.D-894 of 2019.

Mr. Sohail Shahzad advocate for petitioner in C.P No.D-895, 896,897, 898, 918, 920, 924 & 929 of 2019.

Mr. Zeeshan Ali Memon advocate for petitioner in C.P No.D-901 of 2019.

Mr. Abid Ali Thebo advocate for petitioner in C.P No.D-902 of 2019.

Mr. Ahmed Ali Jarwar advocate for petitioner in C.P No.D-903 of 2019.

Mr. Sher Ali Behan advocate for petitioner in C.P No.D-904 of 2019.

Mr. Irshad Ahmed Ansari advocate for petitioner in C.P No.D-905 of 2019.

Mr. Sameeullah Rind advocate for petitioner in C.P No.D-907 of 2019.

Mr. Abdul Majeed Malak advocate for petitioner in C.P No.D-909 of 2019.

Mr. Aslam Baig Laghari advocate for petitioner in C.P No.D-911, 941, 942, 943, 944, 960 & 961 of 2019.

Syed Shahzad Ali Shah advocate for petitioner in C.P No.D-913 of 2019.

Mr. Sabir Hussain advocate for petitioner in C.P No.D-919, 990 & 997 of 2019.

Mr. Irshad Ali Khoso advocate for petitioner in C.P No.D-921 of 2019.

Mr. Shahzad Ali Shah advocate for petitioner in C.P No.D-922 of 2019.

Mr. Bilawal Ali Ghunio advocate for petitioner in C.P No.D-923 & 962 of 2019.

Mr. Peeral Majeedano advocate for petitioner in C.P No.D-925 of 2019.

Mr. Bheemchand Kolhi advocate for petitioner in C.P No.D-926 & 927 of 2019.

Mr. Mushtaque Ali Tagar advocate for petitioner in C.P No.D-934, 936, 945, 946, 947, 948, 949 & 950 of 2019.

Mr. Badar Rajpar advocate for petitioner in C.P No.D-935 & 965 of 2019.

Mr. Naseer A.Narejo advocate for petitioner in C.P No.D-937 of 2019.

Mr. Mohammad Jameel Khan advocate for petitioner in C.P No.D-938 of 2019.

Mr. Noor Ahmed Nohrio advocate for petitioner in C.P No.D-952 of 2019.

Mr. Shahbaz Khan Rajput advocate for petitioner in C.P No.D-957 of 2019.

Mr. Mirza Naeem Baig advocate for petitioner in C.P No.D-959 of 2019.

Mr. Muhammad Ahsan advocate for petitioner in C.P No.D-964 of 2019.

Mr. Riaz Ali Bhatti advocate for petitioner in C.P No.D-979 of 2019.

Mr. Muhammad Rahim Gaju advocate for petitioner in C.P No.D-981 & 1041 of 2019.

Mr. Parkash Lal advocate for petitioner in C.P No.D-983 of 2019.

Mr. Nasrullah A. Khaskheli advocate for petitioner in C.P No.D-988 of 2019.

Mr. Mohammad Aslam Solangi advocate for petitioner in C.P No.D-1006 of 2019.

Mr. Ayaz Mohammad Ghangro advocate for petitioner in C.P No.D-1007 of 2019.

Mr. Ghulam Mustafa Hingorjo advocate for petitioner in C.P No.D-1011, 1012 & 1013 of 2019.

Mr. Mir Noor Mohammad Talpur advocate for petitioner in C.P No.D-1015 of 2019.

Mr. Munir Ahmed Gahothi advocate for petitioner in C.P No.D-1016 of 2019.

Mr. Muhammad Azhar Arain advocate for petitioner in C.P No.D-1019 of 2019.

Miss. Shazia Paras advocate for petitioner in C.P No.D-1020 & 1034 of 2019.

Mr. Kashif Ali Lakho advocate for petitioner in C.P No.D-1022 & 1023 of 2019.

Mr. Badal Gahoti advocate for petitioner in C.P No.D-1024 of 2019.

Mr. Zahid Mallah advocate for petitioner in C.P No.D-1025, 1026 & 1027 of 2019.

Mr. Muhammad Suhail Jamali advocate for petitioner in C.P No.D-1029, 1032 & 1033 of 2019.

Mr. Ghulam Nabi Meo advocate for petitioner in C.P No.D-1030 & 1031 of 2019.

Mr. Abdul Majeed Lashari advocate for petitioner in C.P No.D-1035 of 2019.

Petitioner[s] in person in C.P No.D-766 & 786 of 2019.

## **J U D G M E N T**

***Fahim Ahmed Siddiqui, J-*** Since all the aforementioned petitions deal with the same subject; therefore, this single judgment will suffice to dispose of all of them.

2. The petitioners have claimed exclusions from the operation of Ehtram-e-Ramzan Ordinance, 1981 (hereinafter referred as ‘Ordinance’) on the ground that their eateries are situated at a place

wherein they can continue their businesses on account of exemption given under the Ordinance.

3. The learned Additional Advocate General present in the Court waived notice and submits that he is ready to argue the matter. We have heard the arguments of learned advocates appearing for the petitioners as well as learned Additional A.G. We have also perused the Memo of Petitions, relevant laws and cited case laws.

4. Islam, a religion of peace known to be one of the most cordial religions around the world. With Islam comes the five pillars which constitute of the acts of faith, prayer, fasting, zakat, and hajj. Fasting is performed by the Muslims all over the world in the holy month of Ramzan, as such, the Muslims consider the month of Ramzan as sacred and pay special homage to this month. The Ordinance is promulgated keeping in view of this general respect and reverence of the holy month. The Ordinance and Rules made thereunder provide certain guidelines for Ehtram-e-Ramzan and also provide certain penal action for doing acts, which violate the provisions of the Ordinance. The month of Ramzan teaches us acquiring a supreme level of patience and endurance, as such, it is the duty of every citizen especially Muslim subject of the State of Pakistan to give full reverence to this month and not to make a joke of the sanctity of Ramzan by getting advantage of some provisions of law, which have entirely distinct and different purpose rather than one claimed in the instant petitions.

5. While examining different sections of the Ordinance, we are fully conscious that the respect and honor of the holy month of Ramzan is inculcated in the minds and hearts of the Muslims since generations and the same has been well translated in the form of the Ordinance. Section 3(1) of the Ordinance prohibits any person, who according to tenets of Islam is under an obligation to fast during the month of Ramzan from eating, drinking or smoking in a "public place" while Section 3(2) provides punishment for violators. The word "public place" has been defined in Section 2 of the Ordinance, according to which it includes any hotel, restaurant, canteen, house, room, tent, enclosures, road lane, bridge or other place to which the public have access. As far as exempted places for operation of the

Ordinance is concerned, the same are described in Section 5 of the Ordinance, which is reproduced as under:

**“Exemptions.—** Nothing contained in section 4 shall apply in respect of --

(a) a canteen or kitchen maintained in a hospital for serving food to patients;

(b) A restaurant, or canteen, stall or wheel-barrow, or the holder of vending contract, within the premises of a railway station or in a train or a restaurant or canteen within the premises of an airport, seaport, or bus stand or in an aircraft;

(c) A kitchen or dining-car of a train; or

(d) a kitchen or canteen meant for children within the premises of a primary school.”

In the majority of the instant petition, the plea is taken, since the hotel or restaurant of the petitioners are situated at a Bus Stop; therefore, the same come under the exemption given under Section 5 of the Ordinance. We are of the view that it is not the case. In Section 5 instead of Bus Stop, the word ‘Bus Stand’ is used which when read in the context, it appears that it does not mean the roadside Bus Stop or Layover, which is a point where a bus stops for boarding and alighting passengers during transition between terminus. A **bus stand**, also called a **bus bay**, or **bus stance**, is a designated parking location where a bus or coach waits out of service between scheduled public transport services. The words ‘within the premises’ used in clause (b) of Section 5 of the Ordinance, itself indicates that it is not the roadside bus stops or layovers but a separately designated place wherein parking areas for vehicles, waiting areas for passengers and other amenities are provided. Similarly, it is not sufficient to come under exemption that a canteen, restaurant or refectory is situated nearby a hospital.

6. From the bare perusal of sections 3, 4 and 5 as well as preamble of the Ordinance and the intention of legislature by promulgating the Ordinance was to observe the sanctity of holy month Ramzan and show respect to the Muslims fasting during holy month. It is noteworthy that the prohibition provided within the Ordinance apply only during fasting hours and after the fasting hours all the

eateries may continue their activity and business but not during the fasting time. Since in all the petition, the places mentioned does not fall within exemption given under section 5 of the Ordinance, therefore, all the petitions are **dismissed**.

7. Nevertheless, the eateries and other business offering edible may seek permission from the concerned Deputy Commissioner if they are functioning within the premises of a railway station, airport, seaport or bus stand [a bus terminal situated within an enclosure] so also within the premises of hospital and primary school. All the District & Sessions Judges as well as Deputy Commissioners are directed to make sure that no restaurant, hotel beverage stall, tea shop should remain open at public place save to exemptions provided within section 5 of the ordinance. The concerned Deputy Commissioner is directed to ensure that no permission should be granted to a restaurant, hotel, beverage stall or any other business offering edibles, if the same does not fall within the exemption provided under section 5 of the Ordinance and if the petitioners consider that they are falling under section 5 of the Ordinance, they may approach the concerned Deputy Commissioner. It is further observed that the Deputy Commissioner cannot delegate this power and has to do a complete enquiry before granting such permission.

A copy of this Judgment be communicated to all the District & Sessions Judges and the Deputy Commissioners in Sindh Province, who shall circulate the same to their sub-ordinate officers for guidance.

JUDGE

JUDGE

\*Abdullah Channa/PS\*  
Hyderabad  
Dated 02.05.2019.