

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No. D – 1289 of 2017

Order with signature of Judge(s)

For hearing of main case

26.08.2021

Petitioner present in person
Mr. Ali Safdar Depar, AAG.
Mr. Fahim Hussain Panhwar, DPG
Mr. Abdul Wahab Baloch, DAG
Mr. Jamil Akhtar, SDPO Nazimabad, Karachi

Report along with statement dated 23.8.2021 is taken on record. Investigating Officer submits report, which speaks that except ISI and MI, other agencies have denied detention of missing person Muhammad Adil by them, however, Investigating Officer seeks fifteen (15) days' time with regard to report of said agencies as well he undertakes that he will take all serious efforts to ensure recovery of abductee (missing person). At this juncture, wife of missing person states that since four and a half year, whereabouts of her husband are not known and there are six issues who are in studying age, but she is unable to manage their education and their welfare without any monetary benefits, though her brother is helping her.

2. There can be no exception to the fact that the issue of '*missing person(s)*' is not new one rather hundreds of complaints of like nature have been begging for an '*answer*' though it was / is the absolute responsibility of the '*State/Government*' because the Article-9 of the Constitution does not merely protect the right to 'exist' or 'live' but embodies the right to live a meaningful life with a minimum standard of living, as enunciated by Honourable Apex Court in the case of '*In the matter of Human Rights Case No.17999 of 2018 (2019 SCMR 247)*'. We shall also take no exception in adding that the local police was / is under legal obligation rather a duty to ensure disposal of such complaint (missing person) within a *reasonable* time but things have always been otherwise, as in the instant case, the petitioner claims that whereabouts of her husband (missing person) is not known since last more than **four years**. The issue of '*missing person*' is that, which though does not let the hope of dependents die regarding breaths of *missing person* yet brings all consequences to dependents which they may have in case of death of their loved one. Such consequences, further that is not limited to *grief* alone but includes financial crises *too*. Thus, we would feel may safe in concluding that '*life*' of such person shall not be limited to himself alone but shall include his dependents *too* when it comes to guarantee, provided by Article-9 of the Constitution to such person. In the case of *Mst. Rohaifa*

through her sons & another v. Federation of Pakistan & Ors (PLD 2014 SC 174),

it is concluded by the Honourable Apex Court as:-

“Under Article 9 of the Constitution of the Islamic Republic of Pakistan 1973, it is a Fundamental Right of every citizen of Pakistan that he shall not be deprived of life and liberty save in accordance with law. State of Pakistan being guardian of its citizen is bound to implement the Constitution provisions in letter and spirit particularly the Fundamental Rights, which are guaranteed by the Constitution.”

The legal position, being so, gives rise to a proposition that as to what could be the liability of State/Government towards dependents of *missing person* when the State/Government fails in implementing the Constitutional guarantee to its citizen?

3. Under these circumstances, we put on notice to learned Advocate General Sindh as well as DAG that they shall assist this Court in answering the above propositions, particularly in matters where family heads are missing and families are suffering due to financial crises in maintaining *minimum standard* of life; they would also examine as to whether financial aid / assistance can be made through Zakat / Social Welfare Department and Bait-ul-Maal. They shall also assist this Court with regard to services of the missing persons whose salaries are stopped by their departments because of their absence (missing) that whether their families are entitled to receive the same or otherwise?, as per applicable service laws. Mr. Habib Ahmed advocate is appointed as Amicus Curiae to assist this Court.

4. Judicial propriety demands that this order shall be communicated to the concerned departments as referred above. Head of those departments shall depute their Focal Persons for the help of those families who are suffering as they are the persons, who were earning for their bread and butter and despite efforts of agencies yet they have not been found. To come up on **05.10.2021**.

JUDGE

JUDGE

Zahid/*