

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

Present:

Ahmed Ali M. Shaikh, CJ
and Yousuf Ali Sayeed, J

C.P No. D-1228 of 2023

Bisma Naureen/Ameer Jehan.....Petitioner

Versus

Federation of Pakistan and others.....Respondents

Petitioner, in person.

Date of hearing : 03.03.2023

ORDER

YOUSUF ALI SAYEED, J. - The Petition relates to the “Aurat March” (literally translating to Women’s March), a public demonstration held annually in various cities across Pakistan on the 8th of March - globally recognized as International Women's Day.

2. Proceeding with her submissions, the Petitioner sought that the march be banned, but was at a loss to advance any cogent argument in that regard. Instead, she merely claimed that slogans could be raised by the participants, which, according to her, would run contrary to sociocultural norms and mores. For purpose of illustration, she submitted that participants in such marches had previously raised the slogan “mera jism meri marzi”, and argued that the same was obscene.

3. We have considered the arguments advanced by the Petitioner. As is apparent, the same are based on mere surmises and assumptions as to the possibility of future conduct. Needless to say, that scarcely furnishes proper grounds for a petition.

4. Even as far as the particular slogan cited by the Petitioner is concerned, we see nothing objectionable therein, as to our minds it merely seeks to convey the sense of agency and self-efficacy that a woman is entitled to have and exercise over her person and actions, for whilst “feminism” and feminists may sometimes be viewed with opprobrium by those of a patriarchal or conservative bent of mind, it must be remembered that women’s rights are human rights, and in a country based on democratic values, women are entitled to and need to be extended the full measure of freedoms enshrined under the law and Constitution.

5. Articles 15, 16, 17, 19 of the Constitution are of particular relevance in that respect, guaranteeing the fundamental right to freedom of movement, assembly, association and speech to all citizens, with Article 25 going on to ensure equality before the law and equal protection of the law by stipulating *inter alia* that there can be no discrimination on the basis of sex alone.

6. Whilst it is true that such rights admit to reasonable restrictions, as qualified in each case, it is axiomatic that the same ought to normally be given as expansive an interpretation as possible in terms of the relevant Article(s). Then, in the event of a restriction being

imposed by the State, the same would fall to be tested by the Court so as to ensure that the restriction is “reasonable” in the true sense. However, in the absence of any curb or constraint imposed by the State, it does not fall to the Court to itself take on that function through proceedings under Article 199, especially when no fundamental right of a petitioner is being curtailed.

7. In that respect, it falls to be considered that here the Petitioner does not qualify as an “aggrieved person” in terms of Article 199. Be that as it may, she nonetheless sought to project the matter as warranting action in the public interest. However, in such cases, the Court is required to distinguish between genuine public interest litigation, as opposed to litigation motivated by a desire to seek publicity or serve a private agenda.
8. On that note, we are fortified by the judgment of the Honourable Supreme Court in the case reported as Dr. Akhtar Hassan Khan and others versus Federation of Pakistan and others 2012 SCMR 455, where it was held that:

“The Court has to guard against frivolous petitions as it is a matter of common observation that in the garb of public interest litigation, matters are brought before the Court which are neither of public importance nor relatable to enforcement of a fundamental right or public duty. In *Ashok Kumar Pandey v. State of West Bengal* (AIR 2004 SC 280) the Court was seized of such a petition when it observed as follows:--

"Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for

suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, Court must be careful to see that a body of persons or member of public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs."

9. In our view, the present Petition does not disclose any valid cause of action and appears to be nothing more than an attempt to seek publicity.

10. As such, while granting the Application for urgency, we hereby dismiss the Petition *in limine*, while imposing costs in the sum of Rs.25,000/-, to be deposited by the Petitioner towards the High Court Clinic within 7 days of the date of this Order and the receipt submitted before the Office, failing which appropriate steps are to be taken for ensuring compliance by directing the National Database and Registration Authority to block her CNIC.

JUDGE

CHIEF JUSTICE

Karachi
Dated