

*Order Sheet*

IN THE HIGH COURT OF SINDH KARACHI

**C. P. No. D –5484 of 2024**  
**a/w C.P.No.D – 5323 of 2024**

Date	Order with Signature of Judge
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Hearing:

1. For order on CMA No.907/24 (u/o 39 rule 1&2 CPC)
2. For order on CMA No.24137/24 (exemption)
3. For hearing of Misc.No.24138/24 (151)
4. For hearing of main case

**20.01.2025**

Mr. Ali Tahir, Advocate for Petitioner in CPD 5484/24  
Mr. Ebrahim Saifuddin, Advocate for Petitioner in CPD 5323/24  
Mr. Zai-ul-Haq Makhdoom, Additional Attorney General  
Mr. Naeem Akhtar Talpur, AAG

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1. The petitioner has challenged the vires of amendment brought via 26<sup>th</sup> amendment to Constitution and in anticipation thereupon, urged for an ad-interim orders, having the effect of suspending the very enactment/provision of the Constitution under consideration.

We have heard Mr. Ali Tahir in support of his application.

The Supreme Court has deprecated the tendency to render interim orders having the effect of suspending a “law”. It has been consistently maintained, especially in revenue and constitutional matters, that interim orders, having the effect of suspending a law, ought not to be passed. There is a plethora of edicts to such effect, including the cases of Aitzaz Ahsan<sup>1</sup>, Aijaz Jatoi<sup>2</sup> and Dunlop<sup>3</sup>; and recently the same has been emphasized in the order dated 29.02.2024, passed in the case of Commissioner Inland Revenue, Large Taxpayers Office vs. Pakistan

<sup>1</sup> PLD 1989 SC 61 [Federation of Pakistan v Aitzaz Ahsan]

<sup>2</sup> 1993 SCMR 2350 [Aijaz Jatoi v. Liaquat Jatoi]

<sup>3</sup> AIR 1985 SC 330 [Assistant Collector of Central Excise Vs. Dunlop India Ltd. And Ors.]

Oilfields Ltd. Rawalpindi & Others (Civil Petitions No.3472 to 34745 of 2023).

In Aitzaz Ahsan, Supreme Court held that until the law is finally held to be ultra vires, for any reason, it should have its normal operation. Similarly, in Aijaz Jatoi held that a law is to be taken as validly made and operative till it was “declared” otherwise. (emphasis added).

In mutatis mutandis application of the binding edicts, referred to supra, “interim orders” of such nature cannot be extended in this petition. Application being CMA No.907/24 at Sr.No.1 is dismissed.

3. Learned counsel for the petitioner in C.P.No.5484/24 does not press CMA No.24138/24 for the permission of Full Bench. Dismissed as not pressed.

2-4. Let comments be filed by all the respondents in about two weeks’ time and the matter be fixed soon thereafter.

Office to place a copy of this order in the connected matter.

CHIEF JUSTICE

JUDGE

Ashraf