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REGISTERED
No. C.P.L.A.524-P/2015 - SCJ
SUPREME COURT OF PAKISTAN
Islamabad, dated 28-10-2024

From The Registrar,
Supreme Court of Pakistan,
Islamabad.

To The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 17588

Dated 05-11-24

Subject: CIVIL PETITION NO. 524 - P OF 2015

Mehar Badshah

Versus

Govt. of K.P. through Chief Secretary K.P, Peshawar and others

**On appeal from the Judgment/Order of the Khyber Pakhtunkhwa
Service Tribunal, Peshawar dated 09/06/2015 in Appeal.1995/2011.**


Dear Sir,

I am directed to enclose herewith a certified copy of the Order of this Court dated 24/10/2024 disposing of the above cited case in the terms stated therein for information and further necessary action.

Please acknowledge receipt of this letter along with its enclosure immediately.

Encl: Order also order dt. 24.10.2024

Yours faithfully,


(MUHAMMAD SHAHID HABIB)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

72/24

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Qazi Faez-Isa, CJ
Justice Naeem Akhtar Afghan
Justice Shahid Bilal Hassan

(A.P.R.)

Civil Petition No. 524-P of 2015

Mehar Badshah

Petitioner

Versus

*Govt. of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar and others.*

Respondents

On Court's Notice:

For Govt. of KPK:

Mr. Shah Faisal Ilyas,
Additional Advocate-General, KP,
a/w Mr. Sajid, Aman, SDFO,
Forest Department.

Date of Hearing:

24.10.2024.

ORDER

Qazi Faez Isa, CJ. Civil Petition No. 524-P of 2015, which pertained to the illegal cutting of 218 Shisham trees, was decided *vide* order dated 4 September 2024. However, during its hearing a larger question of deforestation came up, which is a serious issue, because the forest cover in Pakistan has been rapidly decreasing, suggesting complicity and/or negligence of the Forest Department, which is supposed to protect forests. Deforestation results in unprecedented land-slides and flooding, and the diminishing forest cover is not sufficient to enable the sequestering of the green house gas emissions caused by burning fossils fuels, which exacerbates the effect of climate change, the consequences of which are suffered by the people. Pakistan is amongst the countries most vulnerable to the effects of climate change. However, the Forest Department appears to view forests as a resource to be exploited which was a policy of the former colonizers.

2. The government of Khyber Pakhtunkhwa was, therefore, issued notice and directed to submit a report providing the following information: (a) the annual budget of the Forest Department, (b) the total number of employees of the Forest Department, (c) the quantity of timber that has

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Court Associate
Supreme Court of Pakistan
Islamabad

been allowed to be cut, (d) the quantity of timber illegally cut, (e) reforestation measures undertaken and the amount spent on it and (f) the forest cover of the Province and how is it measured/determined. The information in respect of the present and previous five years was sought.

3. The learned Additional Advocate-General, Khyber Pakhtunkhwa ('AAG') submitted a report (CMA No. 10451/2024) in Court, which is signed by the 'Division Forest Officer, Mardan Forest Division, Mardan' ('DFO'). It is not understandable why a DFO of a District has submitted the report when the information that had been sought was in respect of the Province of Khyber Pakhtunkhwa. The report which is submitted is undated and does not disclose the name of the DFO, despite that every document filed in Court must have name of the person who submits/files it. It was categorically stated in the case of *Province of Sindh v Shahzad Hussain Talpur* (2022 SCMR 439) that the *designation and name of the person* must always be disclosed as it also affixes responsibility. The report disclosed that the Forest Department employees are 7,422 personnel and in the last five years a total 6,066,185 cubic feet of timber was allowed to be cut and that 130,255 cubic feet of timber was cut illegally, which was confiscated by the Forest Department.

4. The issue which was taken up by this Court is of critical importance for the Province, and also for the entire country. The future of the people of Pakistan depends in having adequate forest cover. The existing dwindling forests must be preserved and efforts should be made to stop deforestation.

5. Through the Constitution (Twenty-sixth Amendment) Act, 2024 the Constitution of the Islamic Republic of Pakistan was amended on 21 October 2024 and a new Article 9A has been inserted therein, as under:

'Every person shall be entitled to clean and healthy sustainable environment.'

Raising the status of the environment to that of a Fundamental Right in the Constitution shows the importance that the environment and Pakistan is now one of very few countries which mention the environment specifically in their Constitution. It may, however, be stated that even before the insertion of the Article 9A into the Constitution the superior courts of Pakistan had been interpreting Article 9 (*right to life*) expansively and that *life worth living* is one having a sustainable environment. It is,

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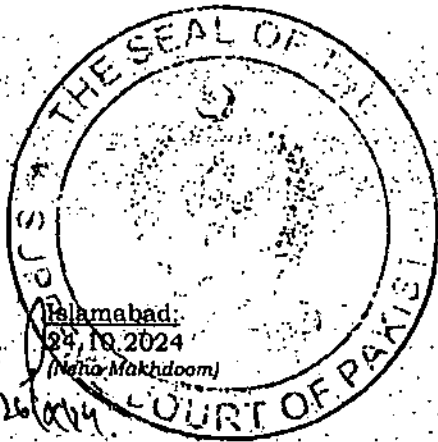
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however, commendable that the right to a clean, healthy and sustainable environment has now been specifically incorporated into the Constitution which undoubtedly will help to preserve flora and fauna and the natural environment. It has by now been established that a viable future is dependent on preserving and conserving the environment and adopting sustainable environmental practices.

6. Forests are natural rainfall catchment areas, and they also ensure against flooding and avalanches. The rain water flowing in to the streams and rivers must not be polluted. Unfortunately and regrettably sewage and industrial waste are released into water bodies killing the life bearing quality of water. The effects of deforestation and pollution long outlast lives. Trees are equally important in sequestering green house gases released by burning fossils fuels. Environment has an importance place in Islam and there are innumerable verses of the Holy Qur'an which mention the natural environment and the rights of all living things. There are also many saying of Prophet Muhammad (peace and blessings be upon him) stressing the necessity to preserve the natural environment, including protecting tress and animals and birds.


7. The environment has been placed as a Fundamental Right in the Constitution and its significance and importance must be brought to bear on everyone and effective preservation measures be taken. The learned AAG states that the Government of Khyber Pakhtunkhwa will be doing so and encourage and implement best sustainable environmental practices. This matter is disposed of in the above terms.



Approved for reporting

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**Court Associate
Supreme Court of Pakistan
Islamabad**

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, CJ
Justice Jamal Khan Mandokhail
Justice Naeem Akhtar Afghan

Civil Petition No.524-P of 2015

(On appeal against the judgment dated 09.06.2015 of the Khyber Pakhtunkhwa Service Tribunal, Peshawar passed in Appeal No. 1995 of 2011)

Mehar Badshah

...Petitioner

Versus

Govt. of Khyber Pakhtunkhwa through Chief
Secretary Khyber Pakhtunkhwa and others

...Respondents

For the Petitioner:

Mr. Muhammad Javed Yousafzai, ASC
(through video link from Peshawar)

For Govt. of KPK:

Syed Kosar Ali Shah, Addl.A.G, KPK

Date of Hearing:

04.09.2024

ORDER

Qazi Faez Isa, CJ. The petitioner was the Range Forest Officer of the LCS Range of the Mardan Forest Division when it came to light that 218 shisham trees were illegally cut. The petitioner along with others were charged for their involvement/negligence and the petitioner was imposed penalty, after conducting an inquiry, however, it was found that the inquiry had not granted a proper opportunity of hearing to the petitioner, therefore, a second inquiry was conducted in which too he was found guilty and pursuant thereto imposed a fine of 231,258 rupees and stoppage of his two increments. The petitioner filed an appeal before the Khyber Pakhtunkhwa Service Tribunal (**the Tribunal**) which was dismissed; the judgment of the Tribunal has been impugned before this Court.

2. Learned counsel for the petitioner states that others who are similarly placed were let off and the petitioner was penalized which is contrary to Article 25 of the Constitution of Islamic Republic of Pakistan.

3. We have examined the documents on record and are of the opinion that the petitioner was lightly let off, however, the contention of the learned counsel that others were exonerated appears to be

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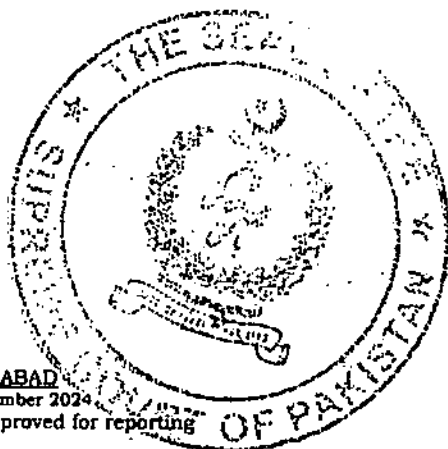


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correct, which is surprising particularly when they were similarly placed. Therefore, whilst declining leave to the petitioner and dismissing the petition we issue notice to the Government of Khyber Pakhtunkhwa and the learned Advocate-General to explain why no action was taken against the others, including the contractor. The learned Additional Advocate General, Khyber Pakhtunkhwa present in the Court waives notice. /

4. Deforestation is a serious issue. The forest cover in Pakistan has been rapidly decreasing which suggests complicity and/or negligence of the Forest Department which is supposed to protect forests. Deforestation has resulted in unprecedented land-slides and flooding, and diminishing forest cover does not enable the sequestering of burnt fossil fuels, which exacerbates the effect of climate change the consequences of which are suffered by the people. Pakistan is amongst those countries most vulnerable to the effects of climate change. The Forest Department appears to view forests as a resource to be exploited, a policy of the former colonizers.

5. The Government of Khyber Pakhtunkhwa is directed to also submit a report providing the following information: (a) the annual budget of the Forest Department, (b) the total number of employees of the Forest Department, (c) the quantity of timber that has been allowed to be cut, (d) the quantity of timber illegally cut, (e) reforestation measures undertaken and the amount spent on it and (f) the forest cover of the Province and how is it measured/determined. The said information shall be provided for the last five years. To be fixed after one month.



ISLAMABAD
4 September 2024
Not approved for reporting
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