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JUDGMENT SHEET
IN THE LAHORE HIGH COURT,
RAWALPINDI BENCH, RAWALPINDI
JUDICIAL DEPARTMENT

Intra Court Appeal No.76 of 2025

Federation of Pakistan *V/S* *Sheikh Rasheed Ahmed*

J U D G M E N T

Dates of hearing	26.02.2026, 05.03.2026 & 12.03.2026
Appellant(s) by	Barrister Haseeb Shakoor Paracha, Additional Attorney General with Malik Zaheer Arshad and Barrister Zain Mansoor, Assistant Attorney Generals. Mr. Muhammad Irshad, Assistant Advocate General.
Respondent(s) by	Sheikh Rasheed Ahmed with Sardar Abdul Raziq Khan, ASC, Sh. Ahsan-ud-Din, ASC and Sardar Shahbaz Khan, Abdul Samad Abbasi, Advocates.

JAWAD HASSAN, J. This judgment is intended to deal with and interpret the scope, object, and legal implications of Section 28-A of the Anti-Terrorism Act, 1997 (the “*Act*”), a provision which occupies significant importance within the statutory framework designed to combat acts of terrorism while simultaneously safeguarding the fundamental rights and procedural protections guaranteed under the Constitution of Islamic Republic of Pakistan, 1973 (the “*Constitution*”).

I. OVERTURE

2. The controversy raised in the instant matter necessitates a careful and purposive construction of the Section 28-A of the “*Act*” in order to determine its true legislative intent, the extent of its application and the manner in which it is to be harmonized with other allied provisions of the statute as well as the broader

constitutional scheme. It is well settled that in interpreting special laws enacted to address extraordinary situations, the Court is required to strike a delicate balance between the imperatives of public safety, effective law enforcement and the preservation of due process, fairness, and rule of law. This judgment shall, therefore, undertake a comprehensive examination of Section 28-A of the “*Act*” under which the Respondent’s name was ordered to be placed in Provincial National Identification List (the “*PNIL*”) by the Federal Investigation Agency (the “*FIA*”) on the direction of Judge Anti-Terrorism Court, Rawalpindi (the “*ATC*”).

3. This Intra Court Appeal was filed under Section 3 of the Law Reforms Ordinance, 1972 (*the “Ordinance”*) by the Appellant challenging the validity of impugned order dated 31.10.2025 (the “*impugned order*”) passed in Writ Petition No.3343 of 2025 by the learned Single Judge whereby the constitutional petition filed by the Respondent was allowed and he was granted permission to go to Kingdom of Saudi Arabia for performance of Umrah with the following observations:

“Learned Additional Attorney General while submitting report on behalf of the respondents submits that learned Anti Terrorism Court Rawalpindi had issued general order for impounding of passports relating to the persons facing trial under Section 28-A ATA, 1997 but at present respondents have no objection on going of the petitioner to Kingdom of Saudi Arabia to perform Umrah”.

II. NARRATION OF RELEVANT FACTS

4. The factual matrix leading to the filing of the instant appeal reveals that earlier the name of the Respondent had been placed on the Exit Control List (the “*ECL*”) by the concerned authorities, wherefrom he assailed the said action by filing Writ Petition No.542 of 2024 before this Court. The said writ petition was

allowed vide order dated 06.03.2024 with a direction to the concerned authorities to remove the name of the Respondent from the “ECL”. In compliance of the directions so issued, the Ministry of Interior, Government of Pakistan, vide letter dated 15.03.2024, deleted the name of the Respondent from the “ECL”. Subsequently, the “ATC” issued a communication dated 31.10.2024 regarding impounding of passports of accused persons facing trial under Section 28-A of the “Act”, addressed to the Director General, Federal Investigation Agency, Islamabad as well as the Director General, Immigration and Passports Headquarters, Islamabad, requiring that under-trial accused persons must seek prior permission of the Court before undertaking travel abroad. It is further borne out from the record that the Respondent, who was facing trial in case F.I.R. No.708/23 dated 09.05.2023 registered at Police Station R.A. Bazar, Rawalpindi, subsequently moved an application before the “ATC” seeking permission to perform Umrah, which was allowed vide order dated 22.01.2025. Consequent upon the grant of such permission, the Respondent also sought exemption from personal appearance, which too was allowed and he was permitted to travel abroad for the performance of Umrah from 04.03.2025 to 14.03.2025. However, at a later stage, when the Respondent was in the process of completing his travel documentation and arrangements for the aforesaid religious journey, it transpired to him that his name has been placed in the “PNIL”. Feeling aggrieved of such action, the Respondent once again invoked the constitutional jurisdiction of this Court by filing Writ Petition No.3343 of 2025, which culminated in the passing of the “*impugned order*”.

III. SUBMISSIONS ON BEHALF OF THE APPELLANT

5. Learned Additional Attorney General *inter alia* argued that the name of the Respondent was placed in the “PNIL” pursuant to order passed by the “ATC”; that writ petition before the learned

Single Judge in Chamber was not maintainable as the Respondent had the remedy to move application before the “ATC” under the “Act” for the purpose of seeking permission to go abroad; that learned Single Judge in Chamber has not considered the provisions of the “Act” and granted permission to the Respondent to travel abroad; that learned Single Judge in Chamber has not considered that the Respondent, without first removing his name from the “PNIL” could not be permitted to go abroad until he obtains order from the “ATC” as mandated under Section 28-A of the “Act”; that the order passed by the “ATC” under the “Act” has never been challenged by the Respondent rather he opted to invoke constitutional jurisdiction under Article 199 of the “Constitution”; that there exist no approval of the Federal Government qua grant of permission to the Respondent whereas such permission was granted to the Respondent by the “ATC” vide order dated 27.02.2025 upon moving an application before it.

IV. SUBMISSIONS ON BEHALF OF THE RESPONDENT

6. Sardar Abdul Raziq Khan, ASC learned counsel for the Respondent, on the contrary, supported the “impugned order” with hilt. He argues that Respondent is respectable citizen of Pakistan and has consistently been performing Umrah for many decades which reflects remarkable continuity of faith, discipline and personal devotion and such longstanding spiritual commitment demonstrates not only religious attachment but also a pattern of lawful and transparent movement abroad, especially when, throughout these decades, accountability bodies like NAB or other relevant authorities never found it necessary to impose any travel restrictions upon him. He strenuously argued that this uninterrupted history of compliance and cooperation with the law creates a legitimate expectation that his *bona fide* religious obligations would continue to be respected and facilitated. He added that sudden refusal to allow him to travel abroad, therefore,

appears inconsistent with past practice and may be perceived as undermining the principles of fairness and proportionality and infringed fundamental rights guaranteed under Articles 4, 10-A and 15 of the “*Constitution*”. Sh. Ahsan-ud-Din, ASC argued that the appeal in hand is not maintainable in terms of Section 96 of Code of Civil Procedure (V of 1908) the “*CPC*” as it was filed against a consent order.

7. We have heard the arguments advanced by the learned counsel for the parties and perused the record made available.

V. DETERMINATION BY THE COURT

(i) Sequence of Events Leading to the “impugned order”

8. There is no dispute that the name of the Respondent had earlier been placed on the “*ECL*” on the recommendation of the authorities of National Accountability Bureau. However, the said name was subsequently removed from the “*ECL*” by the Ministry of Interior, Government of Pakistan vide letter dated 15.03.2024, in compliance of the order dated 06.03.2024 passed by this Court in W.P.No.542 of 2024. Thereafter, the “*ATC*” issued a communication dated 31.10.2024 to the Federal Investigation Agency, Islamabad, as well as to the Directorate General of Immigration and Passports, Headquarters Islamabad, regarding the impounding of passports of accused persons facing trial under Section 28-A of the “*Act*”. Through the said communication it was directed that if any such accused person intended to travel abroad using his passport, he must first obtain permission from the concerned Court. Admittedly, the Respondent thereafter moved an application before the “*ATC*” seeking permission to travel abroad for the purpose of performing Umrah. The said application was allowed vide order dated 22.01.2025. Subsequently, another application seeking exemption from personal appearance was also allowed and he was granted permission to travel abroad for the performance of Umrah from 04.03.2025 to 14.03.2025. Later, it

transpired to the Respondent that his name had been placed in the “PNIL”. Consequently, the Respondent approached this Court by filing Writ Petition No.3343 of 2025, which ultimately culminated in the passing of the “*impugned order*” with the following observation:

“In view of above, without touching the merits of the case, this petition is allowed and the petitioner is granted permission to go Kingdom of Saudi Arabia to perform Umrah”.

ii. Pathology of Section 28-A of the “Act”

9. For the first time, the “ATC” vide its communication dated 31.10.2024 issued directions to the Director General, Federal Investigation Agency, Islamabad, as well as to the Director General, Immigration and Passports, Headquarters Islamabad concerning the impounding of passports of accused persons facing trial under Section 28-A of the “Act” with clear stipulations that any under-trial accused intending to travel abroad shall obtain prior permission from the concerned Court before undertaking such travel. Pertinently, the order of the “ATC” qua impounding of passports was issued under Section 28-A of the “Act” which reads as under:

“28-A. Impounding of passport of person charge-sheeted under the Act. Notwithstanding anything contained in any other law for the time being in force, the passport of a person, who is accused of an offence under this Act, shall be deemed to have been impounded for such period as the Court may deem fit”.

It is manifest from above provision of law that the legislature, by employing a non-obstante clause, has conferred overriding effect upon this provision vis-a-vis all other laws for the time being in force. The moment an accused is charge-sheeted under the “Act”, his passport stands deemed to be impounded not

by virtue of any executive fiat but by operation of law itself. The Court, however, retains discretion to determine the duration of such impounding, thereby ensuring judicial oversight and proportionality. The measure is preventive in nature, intended to secure the presence of the accused during trial and to prevent evasion of process, rather than punitive. Any request for temporary release of passport must, therefore, be considered by the Court on the touchstone of necessity, *bona fides* and adequate safeguards, so that the balance between the fundamental right of movement and the imperative of effective criminal justice is duly maintained.

10. Now the pivotal question which arises for determination in the present matter is whether the High Court or any other Court, other than the “ATC”, can grant permission to an accused person facing trial under Section 28-A of the “Act” to travel abroad without obtaining prior permission from the trial Court, even on the basis of consent of the Respondents. Before proceeding further, it is necessary to examine the scope and effect of Section 28-A of the “Act”. The said provision unequivocally provides that the passport of a person accused of an offence under the “Act” shall be deemed to have been impounded for such period as the Court may deem fit. The term ‘Court’ is defined under Section 2(e) of the “Act” which means an Anti-terrorism Court established under section 13 of the “Act”. The language employed under Section 28-A of the “Act” is mandatory in nature and creates a legal presumption that once a person is charge-sheeted for an offence under the “Act”, his passport stands impounded by operation of law. The purpose behind incorporating such provision is to ensure the presence of the accused during trial proceedings and to prevent the possibility of the accused absconding from the jurisdiction of the Court. It is also pertinent to observe that the expression ‘the Court’ used in Section 28-A of the “Act” refers to

the Court before which the proceedings under the “*Act*” are pending, which in the present case is the “*ATC*”. The legislative intent clearly manifests that the discretion regarding the impounding of the passport and the grant of permission to travel abroad rests exclusively with the Court conducting the proceedings. Consequently, the authority to regulate the use of the passport, including temporary permission for travelling abroad, lies within the domain of the “*ATC*” seized of the matter. The argument of learned counsel for the Respondent that such permission can be granted by another forum merely on the basis of consent of the Appellant/concerned authorities is devoid of any legal substance. Consent of the parties cannot override a statutory mandate; where the legislature has vested a specific power in a particular Court, such power cannot be exercised by any other forum in circumvention of the statutory framework. Acceptance of such a proposition would defeat the very object of Section 28-A and would render the statutory safeguard nugatory. It is well-settled that although the High Court, in exercise of its constitutional jurisdiction, possesses wide powers but such jurisdiction is ordinarily invoked to ensure that subordinate Courts act within the bounds of law and do not exercise powers arbitrarily or without jurisdiction. However, the High Court does not ordinarily substitute itself for a trial Court in matters where the statute has specifically conferred discretion upon that Court, particularly in procedural matters relating to conduct of the trial and regulation of the accused’s presence before it. Therefore, in circumstances where an accused person facing trial under the “*Act*” seeks permission to travel abroad, the appropriate and lawful course is to approach the “*ATC*” concerned. That Court, being fully cognizant of the stage of trial, the conduct of the accused, and the overall circumstances of the case, is best place to determine whether such permission should be granted and under

what conditions as in the case in hand, the Respondent himself filed an application seeking permission to perform Umrah that was allowed in terms of order dated 22.01.2025 and second application for the said purpose was also allowed vide order dated 27.02.2025 passed by the “ATC” with clear cut period from 04.03.2025 to 14.03.2025.

11. In view of the foregoing, it is held that the authority to permit an accused person, whose passport is deemed to be impounded under Section 28-A of the “Act” to travel abroad primarily rests with the “ATC” seized of the Court. No other Court can ordinarily grant such permission merely on the basis of consent of the Respondents, particularly when the matter falls within the statutory domain of the trial Court. Any departure from this principle would be contrary to the scheme and intent of the law. Accordingly, the proposition that permission for travelling abroad may be granted by any Court other than the “ATC” is not legally sustainable and this aspect of the matter has totally been ignored by learned Single Judge in Chamber, while passing the “*impugned order*”.

iii. Estoppel against challenge of consent order

12. Learned counsel for the Respondent contended that the present appeal is not maintainable on the ground that the “*impugned order*” was passed with the consent of the Appellant/concerned authorities. For ease of reference, the relevant portion of the impugned order reads as follows:

“Learned Additional Attorney General while submitting report on behalf of the respondents submits that learned Anti Terrorism Court Rawalpindi had issued general order for impounding of passports relating to the persons facing trial under Section 28-A ATA, 1997 but at present respondents have no objection on going of the petitioner to Kingdom of Saudi Arabia to perform Umrah”.

A careful perusal of the above observations reflects that the “*impugned order*” was passed primarily on the basis of the statement given by the learned Additional Attorney General on behalf of the Federal Authorities. During the course of hearing, learned counsel for the Respondent has stated that the Appellant is bound by the statement of No Objection made before this Court showing no objection to the respondent's travel abroad for the purpose of performing Umrah and has placed reliance on judgments reported as “*JDW SUGAR MILLS LTD. and others versus PROVINCE OF PUNJAB and others*” (PLD 2017 Lahore 68) and “*MUBASHAR JAVED and others versus PROVINCE OF PUNJAB and others*” (PLD 2022 Lahore 817) and argued that a party who succeeds upon a particular assertion before a Court of competent jurisdiction is thereafter estopped from resiling from that position. The controversy in hand also brings into focus the applicability and scope of the doctrine of judicial estoppel, which is founded upon the salutary principle that a litigant who has, with full knowledge and free will, adopted a particular stance before a Court of law and has secured an order on the basis thereof, cannot subsequently be permitted to assume a contradictory position to the prejudice of the opposite party or to the detriment of the sanctity of judicial proceedings. This doctrine, rooted in considerations of fairness, consistency and finality, operates as a restraint against approbation and reprobation in the course of litigation and thus bears directly upon the question of maintainability of the present appeal. This doctrine is a shield forged in equity to protect the integrity of judicial proceedings; it presupposes that the party making the earlier representation possessed both the consciousness of its significance and the authority to bind the party in whose name it was uttered. Where a counsel or representative of the State makes a concession that

travels beyond the bounds of their lawful mandate, or where the concession is inconsistent with a subsisting statutory or judicial command, equity cannot be pressed into service to perpetuate what the law itself prohibits. It is an equally well-settled principle of jurisprudence, affirmed by the august Supreme Court of Pakistan in "UNIVERSITY OF MALAKAND through Registrar and others versus DR. ALAM ZEB and others" (2021 SCMR 678), wherein it has held that there is no estoppel against law, and a statutory obligation cannot be rendered nugatory by reason of a concession inadvertently or unauthorisedly made in the course of litigation. Guidance can also be sought from "Mst. HASEENA BIBI versus ABDUL HALEEM and others" (PLD 2024 Supreme Court 291) and "BAHADUR KHAN and other versus FEDERATION OF PAKISTAN through Secretary M/o Finance, Islamabad and others" (2017 SCMR 2066). In the instant matter, the placement of the Respondent's name on the "PNIL" was not the product of any discretionary or individualized administrative order susceptible of being waived by a courtroom concession; rather, it flowed from a general order of the "ATC" dated 31.10.2024 (Page 32 of this appeal), which is a command of a judicial forum clothed with the authority of law. It is trite law that no officer of the State, howsoever senior, may by his unilateral statement before a Court dispense with the operation of a subsisting judicial order; to hold otherwise would permit an individual act of indiscretion to override the solemn mandate of a court of competent jurisdiction. The representative appearing on behalf of the Appellant/State was neither authorized to waive the application of the ATC's general order nor possessed the legal competence to do so, and no estoppel can arise from a statement made in excess of authority.

13. In view of the foregoing, this Court holds that the doctrine of judicial estoppel, though a salutary principle of procedural fairness upon which this Court would ordinarily act

without hesitation, has no application to the facts presently before it. The statement attributed to the appellant's representative must be understood in its proper context. It was, at best, an informal expression of non-opposition made without appreciation of the legal framework governing the "PNIL", and cannot, as a matter of law or equity, be construed as a binding concession extinguishing the operation of the ATC's general order. Estoppel being an equitable doctrine, a court of equity must be equally alive to the equitable proposition that no party ought to be bound by a representation that was neither authorised nor legally competent to be made. The argument of the learned counsel for the Respondent on this point is therefore repelled.

iv. Vagueness in the relief claimed in writ petition

14. When confronted to latter qua the maintainability of writ petition in the light of 26th Amendment to the "Constitution" and the dictum laid down by this Court in the case of "KAKAKHAIL TRADERS versus PROVINCE OF PUNJAB and others" (PLD 2025 Lahore 630), learned counsel for the Respondent was unable to satisfy the Court. We have noted that the Respondent filed writ petition with a vague and unclear prayer and without challenging any specific order. The prayer clause reads as under:

"It is, therefore, respectfully prayed that this writ petition be allowed, the impugned orders/actions of the respondents placing the name of the petitioner in the "Provisional National Identification List (PNIL) or stop list be declared as illegal, unlawful, without lawful authority, violative of Article 2-A, 4, 9, 10A, 15 and 20 of the Constitution of Islamic Republic of Pakistan 1973 as well as Article 12(4) of International Covenant on civil and political rights adopted by United Nations General Assembly and

consequently, the same be set aside and respondents be directed to remove the name of the petitioner from PNIL/ECL or stop list etc and the petitioner be allowed to travel abroad without any hindrance and restraints”.

15. The prayer reproduced hereinabove reflects that the Respondent had sought a declaration that the alleged action of the Appellant in placing his name on the “PNIL” be declared illegal and that the Appellant be directed to remove his name therefrom. However, a careful reading of the said prayer reveals that the Respondent has not specifically challenged any particular order, notification, or communication issued by a competent authority whereby his name was placed on the “PNIL” or any other travel restriction list. It is a settled principle of constitutional jurisprudence that in proceedings before the High Court under Article 199 of the “Constitution”, a petitioner is required to specifically assail a definite order or action of a public authority so that the Court may examine the legality, propriety, and jurisdiction of such order. In the absence of a specific order being placed on record and challenged before the Court, the relief sought becomes vague and incapable of judicial determination. In the present case, the Respondent has made a generalized prayer only seeking the declaration of illegality of the alleged placement of his name in the “PNIL”, while simultaneously invoking alleged violations of Articles 2-A, 4, 9, 10-A, 15 and 20 of the “Constitution” as well as Article 12(4) of the International Covenant on Civil and Political Rights adopted by the United Nations General Assembly. Notwithstanding the constitutional and international provisions referred to in the writ petition, the foundational requirement remains that the Respondent must identify and challenge the specific order, directive, or administrative action forming the basis of his grievance. As mandated by Article 199(1)(1A) of the

“*Constitution*”, introduced through Section 16 of the Constitution (Twenty-sixth Amendment) Act (the “Twenty-sixth Amendment”) on 21.10.2024, the learned Single Judge ought not to exercise jurisdiction or issue directives beyond the matters explicitly raised in the writ petition as held by the Supreme Court of Pakistan in the case of “OWAIS SHAMS DURRANI and others versus VICE-CHANCELLOR, BACHA KHAN UNIVERSITY, CHARSADDA and another” (2020 SCMR 1041) wherein it has been held that “*it is trite that where a citizen seeks relief in Constitutional jurisdiction he must point to a right statutory or constitutional which vests in him and has been denied in violation of the law*”.

v. **Constitutional limitations on freedom of movement under Article 15 of the “Constitution”**

16. The learned counsel for the Respondent has vehemently contended that the alleged restriction imposed upon the Respondent from travelling abroad is violative of Article 15 of the “*Constitution*”. It is argued that the right to movement, including the right to travel abroad, is a fundamental right guaranteed under the “*Constitution*” and any restriction placed upon such right is unconstitutional and liable to be struck down. Before adverting to the merits of the contention raised, it would be advantageous to reproduce Article 15 of the “*Constitution*” which reads as follows:

“Every citizen shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.”

A plain reading of the above provision demonstrates that although the “*Constitution*” guarantees the freedom of movement as a fundamental right but the same is not absolute in nature. The framers of the “*Constitution*” have expressly

qualified this right by making it “*subject to reasonable restrictions imposed by law in the public interest.*” The constitutional scheme therefore recognizes that the right of an individual to move freely must sometimes yield to the larger interest of society, the administration of justice, and the enforcement of law. It is by now a well-settled principle of constitutional jurisprudence that fundamental rights are not unqualified or unlimited. They operate within the framework of law and may legitimately be regulated by statutory provisions enacted in the public interest. The test for the validity of such restrictions is whether the restriction is reasonable; whether it is imposed through lawful authority; and whether it serves a legitimate public purpose. In matters relating to criminal proceedings and administration of justice, restrictions on the movement of an accused person are not uncommon. Where a person is facing trial before a competent court, certain conditions may be imposed to ensure his availability during the proceedings and to prevent the possibility of abscondence. Such restrictions are designed to maintain the efficacy of the criminal justice system and cannot be termed as arbitrary merely because they limit the personal liberty of the accused to some extent. In the present case, the restriction complained of is not an arbitrary administrative measure but is intrinsically connected with ongoing judicial proceedings before the “ATC” under the “Act”. The statutory framework governing such proceedings provides mechanisms through which the presence of an accused person is ensured during trial, including the regulation of his travel abroad where circumstances so require. These measures are intended to secure the attendance of the accused and to ensure that the trial proceeds without obstruction. It is also significant to note that such restrictions are not permanent in nature. The law itself provides that the

competent Court seized of the matter retains the discretion to permit travel abroad if sufficient cause is shown and if the Court is satisfied that such permission would not prejudice the proceedings as was given by the “ATC” on 22.01.2025 and 27.02.2025 upon moving application by the Respondent. Therefore, the restriction is regulatory rather than punitive and is subject to judicial oversight. The Court is also mindful that the right to travel abroad, though often associated with the freedom of movement, is not an unqualified constitutional guarantee. The Courts have consistently held that where a person is involved in criminal proceedings or where the interests of justice require, temporary restrictions on foreign travel may legitimately be imposed by law or by orders of a competent court.

vi. Legal Nexus between Article 15 and Section 28-A

17. In the constitutional scheme, the balance between individual liberty and societal interest is of paramount importance. While the “*Constitution*” zealously protects fundamental rights, it simultaneously empowers the State to regulate such rights in the larger public interest. The phrase ‘reasonable restriction’ embedded in Article 15 of the “*Constitution*” is a constitutional recognition of this delicate balance. In the case in hand, Section 28-A of the “*Act*” is of most importance as it provides that passport of a person accused of an offence under the said “*Act*” shall be deemed to have been impounded for such period as the Court may deem fit. The legislative intent behind this provision is manifest. The offences triable under the “*Act*” relate to serious crimes affecting public safety, national security and the overall stability of society. In order to ensure that an accused person facing such serious allegations remains available to face trial and does not evade the process of law, the legislature has

introduced a mechanism whereby the passport of such accused is deemed to be impounded during the pendency of proceedings, subject to the discretion of the Court. When Article 15 of the "*Constitution*" is read in isolation, it may appear to confer an unrestricted right of movement. However, when the qualifying phrase contained in the said Article namely, "subject to reasonable restrictions imposed by law in the public interest" is taken into consideration, it becomes evident that Section 28-A of the "*Act*" falls squarely within the ambit of permissible constitutional limitations. Consequently, Article 15 of the "*Constitution*" and Section 28-A of the "*Act*" must be read together and harmoniously interpreted. The doctrine of harmonious construction requires that where a constitutional provision and a statutory enactment operate within the same field, the Court should interpret them in a manner that gives effect to both rather than rendering either of them redundant. Article 15 of the "*Constitution*" lays down the general constitutional principle of freedom of movement, whereas Section 28-A of the "*Act*" provides a specific statutory framework regulating the movement of persons accused of serious offences under the "*Act*". The latter therefore operates as a lawful and reasonable restriction within the meaning of Article 15 of the "*Constitution*". It is also significant that the restriction contemplated under Section 28-A of the "*Act*" is not arbitrary or absolute. The provision itself vests discretion in the Court to determine the duration of the impounding of the passport and to consider requests for travel abroad in appropriate circumstances. Thus, the restriction is regulatory in nature and is subject to judicial oversight. The accused person is not left remediless; rather, he may approach the Court seized of the matter to seek permission for travel abroad, and the Court may grant such permission upon being

satisfied that the interests of justice will not be compromised. The constitutional framework thus envisages a balance between the fundamental rights of an individual and the necessity of ensuring effective administration of criminal justice. Where an accused person is facing trial under a special law dealing with grave offences, certain limitations upon his freedom of movement may legitimately be imposed to secure his presence before the Court and to prevent the frustration of the judicial process. Such limitations cannot be viewed as violations of fundamental rights but rather as lawful regulatory measures permitted under the Constitution itself. Viewed in this perspective, the restriction arising from Section 28-A of the “Act” cannot be said to be inconsistent with Article 15 of the “*Constitution*”. On the contrary, the statutory provision i.e. Section 28-A of the “*Act*” operates within the constitutional framework by constituting a reasonable restriction imposed by law in the public interest. Therefore, both provisions must be read conjointly so as to give effect to the legislative intent while preserving the constitutional guarantee of freedom of movement within its permissible limits.

18. In view of the foregoing discussion, this Court is of the considered opinion that Article 15 of the “*Constitution*” does not confer an unfettered right to travel abroad in circumstances where a person is facing trial under the “*Act*”. Section 28-A of the “*Act*”, being a lawful statutory provision enacted in the public interest, operates as a reasonable restriction on the exercise of the right guaranteed under Article 15 of the “*Constitution*”. Accordingly, both provisions are required to be read together and harmoniously construed in order to maintain the balance between individual liberty and the effective administration of justice. From above, it is evident that Article 15 of the Constitution does not confer an unfettered or absolute

right of movement. The freedom guaranteed therein is expressly subject to reasonable restrictions imposed by law in the public interest. Consequently, where such restriction emanates from lawful authority and is aimed at ensuring the proper administration of justice, the same cannot be said to be violative of Article 15 of the “*Constitution*”.

vii. Seeking Identical Relief During Pendency of Appeal

19. It evinces from the record that this appeal was filed on 25.11.2025 and the Court while issuing notice, suspended the operation of the “impugned order” whereafter C.M.No.04 of 2025, seeking vacation of stay was filed. It has come to the notice of this Court that the Respondent, during the pendency of the present appeal, has approached the “ATC” by filing a fresh application seeking similar relief qua permission to travel abroad for the purpose of performing Umrah which was dismissed by way of order dated 24.02.2026 with the following observations:

“6. The Writ Petition No.3343 of 2025 is most relevant on the subject in hand. In the said writ petition, the Petitioner was allowed to go to Saudi Arabia to perform Umrah vide order dated 31.10.2025. However, the Federation of Pakistan through its prosecution branch challenged the said order dated 31.10.2025 by way of ICA No.76/25 which was partially accepted on 25.01.2025 and the impugned order dated 31.10.2025 granting permission to perform Umrah was suspended. The said ICA is still pending and has not yet been final disposed of. Therefore, in the presence of that ICA No.76 this Court being subordinate to the Hon'ble High Court cannot pass any conflicting order as the matter of granting permission to perform Umrah to the petitioner is sub-judice before Hon'ble Lahore High Court, Rawalpindi Bench so the petition is dismissed with the observation

that the Petitioner may seek his remedy from the Hon'ble Lahore High Court if so interested.

7. Before parting with this order, the Court is constrained to observe that while moving fresh application before this Court on the last date of hearing, the petitioner has concealed material facts about pendency of the ICA as well as filing of the previous writ petition in the Hon'ble Lahore High Court on the same subject of seeking permission to perform Umrah. This fact was pinpointed by the learned prosecutor due to which photocopies of the previous litigation was provided by his learned counsel so the accused/petitioner Sheikh Rasheed Ahmad is warned to be careful in future and any such lapse or concealment of facts on his part may entail legal proceedings”.

Above said observation clearly indicates that the Respondent moved a fresh application, during the pendency of this appeal, before the “ATC” which was dismissed on the ground of pendency of this I.C.A. before this Court. The Respondent was further cautioned to be remained careful in future for concealing the present proceedings. Such conduct on the part of the Respondent is of particular significance, as it presumes that he was fully aware of the proper forum for seeking such relief and of the pendency of the present appeal before this Court. By approaching the “ATC” while the matter is sub-judice, the Respondent has acted in a manner which suggests either a deliberate attempt to circumvent the appellate proceedings.

20. In this view of the matter, it can safely be inferred that the Respondent was fully aware of the remedies available to him under the “Act”. Notwithstanding the availability of such statutory remedies, the Respondent chose not to approach the “ATC” in the first instance. Instead, he invoked the constitutional jurisdiction of this Court by filing a writ petition

seeking permission to travel abroad for the purpose of performing Umrah. The said writ petition was allowed primarily on the basis of an irresponsible statement made by the Law Officer appearing on behalf of the Appellant to the effect that the Federal Authorities had no objection on the travelling of the Respondent abroad for the said purpose. The record further reflects that the “*impugned order*” was not passed after a detailed examination of the statutory framework governing the matter or the remedies available to the Respondent under the “*Act*” rather the relief appears to have been granted largely on the basis of such statement of the Additional Attorney General for Pakistan. Such a course, though apparently innocuous, yet has the effect of bypassing the statutory forum specifically designated by law to regulate such matters. It is also to be noted that being aggrieved of the “*impugned order*”, the Appellant preferred this appeal questioning the legality and propriety of the order passed in the constitutional petition. Significantly, during the pendency of this appeal, the Respondent himself approached the “*ATC*” and filed an application seeking permission to travel abroad. This subsequent conduct of the Respondent clearly demonstrates that the appropriate and competent forum for seeking such permission was indeed the “*ATC*” where the proceedings against him were pending. The fact that the Respondent eventually approached the “*ATC*” reinforces the position that the remedy provided under the “*Act*” was not only available but also effective and adequate. In the present case, the Respondent consciously bypassed the statutory mechanism and sought relief directly through a constitutional petition, which, as already stated, was allowed primarily on the basis of a statement made by Additional Attorney General without the matter being examined within the proper statutory framework

as such, being a Law Officer, representing the Federation of Pakistan, appears to have misguided the learned Single Judge which resulted into passing of the “*impugned order*”. Such conduct undermines the duty of a law officer, whose primary obligation is to assist the Court with candor, honesty, and complete disclosure of facts, irrespective of the party being represented. Moreover, the subsequent act of the Respondent in approaching the “*ATC*” during the pendency of the appeal further underscores that the “*ATC*” was the proper forum to adjudicate the request for travel abroad. In these circumstances, the Court is of the considered view that the Respondent ought to have first availed the remedy available to him before the “*ATC*” instead of invoking the constitutional jurisdiction of the High Court in the manner he did. Thus the “*impugned order*”, having been passed without due consideration of the statutory scheme and primarily on the basis of such a statement of the Law Officer, which was not in consonance with the law, cannot be allowed to stand.

VI. CONCLUSION

21. In light of the above discussion, it is evident that the authority to regulate the passport of an accused under Section 28-A of the “*Act*”, including permission to travel abroad, lies exclusively with the “*ATC*” seized of the matter. The “*impugned order*” was passed primarily on the basis of a concession made by the law officer, which was beyond his lawful mandate and contrary to the statutory framework and against which no estoppel can arise as a concession made without authority cannot override a subsisting judicial command. Thus, we are inclined to allow this appeal and *set aside* the “*impugned order*” with the observation that the application of the Respondent, filed during the pendency of this appeal before the “*ATC*” which was disposed of and had not

been decided on merits on account of pendency of this appeal, is deemed to be pending before the “ATC” which shall be decided on its own merits after hearing both the parties, in accordance with law without being influenced by any observation made herein.

(TARIQ MAHMOOD BAJWA)
JUDGE

(JAWAD HASSAN)
JUDGE

Approved for Reporting

JUDGE

JUDGE

*Usman**