

IN THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate Jurisdiction)

Present

Justice Syed Hasan Azhar Rizvi
Justice Muhammad Karim Khan Agha

C.P.L.A. No. 1451-L/2024

*(Against the order dated
17.04.2024, passed by the
Lahore High Court, Lahore in WP
No. 14005/2020)*

*Central Government through Chairman
Evacuee Trust Property Board, etc.*Petitioner(s)

Versus

*Member (Judicial-IV) Board of Revenue,
Punjab, Lahore, etc.*Respondent(s)

For the Petitioner(s) : Mian Irfan Akram, ASC

For the Respondent(s) : Mr. Waseem Mumtaz Malik, Addl. AG

Date of Hearing : 09.12.2025

ORDER

Syed Hasan Azhar Rizvi, J.- On perusal of the impugned order dated 17.04.2024, passed by the High Court in Writ Petition No. 14005/2020, we find that an observation was made that it has no jurisdiction to adjudicate the matter as the dispute is *inter se* the two governments. For ease of reference, paragraph 4 thereof reads as under:

“...4. When confronted to the learned counsel for the parties that the matter in dispute is between Central and Provincial Government and in the disputes between two or more Governments, the Supreme Court of Pakistan has original jurisdiction, as per mandate of Article 184(1) of the Constitution of the Islamic Republic of Pakistan, 1973, they frankly conceded this position.”

2. We have heard the learned counsel and also the learned Additional Advocate General at length. The record shows that the writ petition was instituted by the petitioner which was titled as “*Central Government through Chairman, Evacuee Trust Property Board, etc versus Member (Judicial-IV) Board of Revenue, Punjab, Lahore.*”. The real contest, however, is in between the Evacuee Trust Property Board on

the one hand and the Education Department, Government of Punjab, on the other, *qua* land measuring 56 Kanals and 15 Marlas, admittedly evacuee trust property, which has historically been used as a cremation ground for the local Hindu community and is claimed to have been reserved for *Mariyan Ahl-e-Hanud*. The said land was later on mutated in favour of the Education Department *vide* Mutation No. 6141 dated 28.05.1989, giving rise to prolonged litigation between the two entities as referred above.

3. The status and legal personality of the Evacuee Trust Property Board are governed by the Evacuee Trust Properties (Management and Disposal) Act, 1975 (“the Act”). Section 3(1) of the Act provides that the Federal Government shall constitute a Board to be known as the Evacuee Trust Property Board for the management and disposal of evacuee trust property. Section 3(2) of the Act then expressly stipulates:

“.....(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.” (Emphasis added)

In addition to that, Section 4(2)(s) of the Act specifically empowers the Board “to institute and defend suits and proceedings in a court of law”, reinforcing that it is the proper litigating entity in matters concerning evacuee trust properties.

4. The Constitution of the Islamic Republic of Pakistan, 1973 (“the Constitution”) recognizes the Federal Government and the Provincial Governments; there is no constitutional entity known as the “Central Government”. It is pertinent to mention here that at the time when the impugned order was passed, the original jurisdiction in any “dispute between any two or more Governments” was vested in the Supreme Court of Pakistan under Article 184(1) of the Constitution; pursuant to the 27th constitutional amendment this jurisdiction now vests to this Court under Article 175E(1) of the Constitution. The nature of this jurisdiction has not changed. A dispute between a federal statutory corporation, such as the Evacuee Trust Property Board, and a provincial department does not, merely for that reason, become a “dispute between two Governments”. The Supreme Court of Pakistan in a case titled as

Pakistan Railways v. Karachi Development Authority,¹ held that a statutory/local authority, being a separate body corporate with its own fund and officers, could not be treated as the Government itself for the purposes of Article 184(1) of the Constitution. On the same reasoning, the Evacuee Trust Property Board, being a body corporate with power to sue and be sued in its own name and expressly empowered to institute and defend suits and proceedings in a court of law, is a distinct juristic entity and cannot, simpliciter, be equated with the Federal Government. The description “Central Government through Chairman, Evacuee Trust Property Board” in the memo of parties is thus imprecise and constitutionally inaccurate.

5. Furthermore, misdescription of the petitioner as “*Central Government through Chairman, Evacuee Trust Property Board, etc.*” and any concession made at the bar could not divest the High Court of jurisdiction that otherwise vested in it under Article 199 of the Constitution.

6. In view of the above, this petition is converted into an appeal and allowed, the impugned order is set aside and the case is remanded to the Lahore High Court, Lahore for deciding the same afresh in accordance with law, preferably within a period of three months from the date of receipt of this order.

Judge

Judge

Islamabad
09.12.2025
Not approved for reporting
M. Younus Shaikh/-

¹ 2003 SCMR 563