FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:
Justice AAMER FAROOQ
Justice ROZI KHAN BARRECH

F.C.P.L.A. Nos.379, 380, 384 AND 389 OF 2025

(Against judgment dated 15.10.2025, passed by the Peshawar High Court, Peshawar in W.P.No.7516-P, 7088-P, 7517-P and 7125-P of 2025)

Peshawar High Court Bar Association through its Secretary General, Peshawar — …Petitioner(s) (In all the petitions)

Versus

Shabbir Hussain & another — in F.C.P.L.A.379/2025 & F.C.P.L.A.380/2025

Ali Azim Afridi, AHC and others — in F.C.P.L.A.384/2025 & F.C.P.L.A.389/2025

…Respondents

For the Petitioner(s)	:	Mr. Babar Khan Yousafzai, ASC (In all cases) along with Ahmed Farooq Khattak, Member Bar Council
For the Respondent(s)	:	Ali Azim Afridi, in-person
Assisted By	:	Barrister Zarrar Haider Bhatti, Law Clerk
Date of Hearing	:	31.03.2026

JUDGMENT OF THE COURT

JUSTICE AAMER FAROOQ:

1. Two questions arise for consideration for this Court. First, does the jurisdiction of a High Court under Article 199(1)(c) of the Constitution of 1973 extend to issuing writs against "any person", including regulatory bodies like Bar Councils? We find that it does. Second, does the suspension of the licenses of two lawyers, one for representing a client and the other for appearing in court during a strike, constitute an infringement of the Respondents right to practice their profession under Article 18 of the Constitution, 1973? We hold that it does.

I

2. The case arises from the murder of a young lawyer, in connection with which a Station House Officer, was implicated. A First Information

Report, bearing No. 1277, was duly registered. The incident triggered a wave of protests aimed at ensuring that the officer was brought to justice. In due course, the officer surrendered before the Court and was taken into custody. He subsequently retained Mr. Shabbir Hussain Gigyani, an Advocate of the Supreme Court and one of the Respondents herein, as his counsel. These developments prompted the KPK Bar Council to pass a resolution prohibiting any advocate from representing the accused officer. Meanwhile, Mr. Ali Azim Afridi, an Advocate of the High Court, faced disciplinary action when his license was suspended by the Executive Committee of the KPK Bar Council in an emergency meeting convened on 08.10.2025. The suspension followed a communication from the Peshawar Bar Council, citing his appearance in court during a declared strike as an act of "indiscipline." The Respondents challenged the suspension of their licenses before the Peshawar High Court, it allowed the writ petitions through a consolidated judgment. *Shabbir Hussain* v. *Pakistan Bar Council through its Secretary, Islamabad and Others*, Writ Petition Nos.7516-P/2025 and etc.[1] Respondents now seek leave to appeal before this Court.

3. We have heard the learned counsel for the parties and perused the record available.

A

I

4. We first take up the question with regards to the maintainability of the writ petition filed by the Respondents before the Peshawar High Court against the Petitioners, that was allowed. The analysis of the Peshawar High Court in the impugned judgment moved across the lines of Article 199(1)(c) of the Constitution, 1973. It formed its opinion that

[1] The impugned judgment.

"[having] regard to the fundamental nature of the rights involved, it is evident that the instant petitions are squarely maintainable. The matter concerns the protection of fundamental rights of advocates and litigants- the right of an advocate to practice and represent clients, and the corresponding right of every citizen to be represented by a lawyer of their choice. The present petition is neither seeking mandamus or prohibition against State or government functionaries, nor as it is in the nature of quo warranto; rather, it squarely falls within the scope of Article 199(1)(c) of the Constitution". See, *Shabbir Hussain, ibid* at p.17. So, this shows that the High Court in upholding the maintainability of the writ petition, conferred upon it the power to adjudicate the case under Article 199(1)(c) i.e., "Subject to the Constitution, a High Court may, if it is satisfied that no other adequate remedy is provided by law, on the application of any aggrieved person, make an order giving such directions to any person or authority, including any Government exercising any power or performing any function in, or in relation to, any territory within the jurisdiction of that High Court as may be appropriate for the enforcement of any of the Fundamental Rights conferred by Chapter I of Part II. See, Pakistan Constitution Article 199, clause 1(c).

5. The historical development of the constitutional jurisdiction of the High Court shows a consistent and broad scope of authority in issuing writs. Under the Government of India Act, 1935, section 223-A empowered High Courts to issue writs, including habeas corpus, mandamus, prohibition, quo warranto, and certiorari, against "any

person or authority," including government bodies[2]. This framework was carried forward into Pakistan's first Constitution of 1956, where Article 170 conferred similar jurisdiction on the High Courts[3]. However, it expanded the scope by expressly allowing writs to be issued not only for general purposes but also for the enforcement of fundamental rights guaranteed under Part II of the erstwhile 1956 Constitution. Later, the 1962 Constitution retained this approach, with Art.98(2)(c) resembling the present Article 199(1)(c)[4]. Taken together, these provisions indicate that, from the initial constitutional order to till this date, the High Courts were consistently vested with the power to issue writs against "any person." Importantly, there was no explicit restriction limiting this jurisdiction to public authorities alone. Even though the Government of India Act,1935, did not recognize fundamental rights, the later 1956 Constitution explicitly allowed writs for their enforcement, again without restricting the categories. A review of constitutional history shows that the High Courts have consistently held wide writ jurisdiction for enforcing fundamental rights, without any explicit restriction on issuing writs against "any person," whether it be public authorities or private individuals, entities, or regulatory bodies.

6. "This clause (Art.199 (1)(c) of the Constitution, 1973) establishes a jurisdiction that was previously unknown to the common law or to

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[2] "Every High Court shall have power throughout territories in relation to which it exercises jurisdiction to issue any person or authority including in appropriate cases any Government within those territories writs including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari or any of them". *See,* Government of India Act s.223A (1935).

[3] "Notwithstanding anything in Article 22, each High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, for the enforcement of any of the right conferred by Part II and for any other purpose". *See,* Pakistan Const. Art.170 (1956)

[4] "Subject to this Constitution, a High Court of a Province if it is satisfied that no other adequate remedy is provided by law- on the application of any aggrieved person, make an order giving such directions to any person or authority, including any Government, exercising any power or performing any function in , or in relation to, any territory within the jurisdiction of that Court as may be appropriate for the enforcement of any of the fundamental rights conferred by Chapter 1 of Part II of this Constitution". *See,* Pakistan Const. Art.98(2)(c) (1962)

legal systems lacking a written constitution. The rationale for creating such jurisdiction is evident: it would have been futile to guarantee Fundamental Rights without providing a mechanism for their enforcement." *See*, Justice Fazal Karim, Jurisdiction and Judicial Review 236 (2nd ed. 1990). Notably, the Supreme Court interpreted Art. 199(1)(c) of the Constitution in *Pakistan Olympic Association* v. *Nadeem Aftab Sindhu,* 2019 SCMR 221 (Per CHIEF JUSTICE SAQIB NISAR). This precedent is discussed below for it provides the basic understanding of Art.199(1)(c) and its scope.

II

7. In 2018, the Supreme Court of Pakistan was seized of a matter arising from a challenge to the elections of the Pakistan Olympic Association, an autonomous society, which had initially been brought before the High Court in its writ jurisdiction. Upon the matter reaching the Supreme Court, the question of maintainability of such writ petitions came under consideration. In this context, the Court articulated two distinct questions: first, whether the Association fell within the ambit of a 'person' performing public functions in connection with the affairs of the Federation under Art.199(1)(a) of the Constitution; and second, whether, on that basis or otherwise, a writ petition against it was maintainable under Art.199(c). It is of significance that this bifurcation of issues was neither inadvertent nor without purpose. Rather, the Court deliberately framed the questions in this manner, being mindful that while the jurisdictions envisaged under Article 199 may, in certain circumstances, overlap or intersect, they nonetheless remain, in their essence, distinct and independent in character. See generally, *Khalid Mehmood* v. *Pakistan through Secretary Ministry of Finance,* PLD 2026 FCC 1.

8. The primary question that initially the *Pakistan Olympic Association* Court dealt with was whether the phrase "of or under the control of the Federal Government or of a Provincial Government" (used in Art. 199(5)) is enjoined to the expression "anybody politic or corporate," given that Art.199(5) of the Constitution defines the term "person" which also extends to Art.199(1)(c). Had this qualifying phrase been applicable to "anybody politic or corporate" the inevitable consequence would have been that no writ petition could be maintained in that case. The Court, however, did not adopt such an interpretation. Instead, it held that the phrase "of or under the control of the Federal Government or of a Provincial Government" is confined to, and operates only in relation to, the expression "any authority," while "anybody politic or corporate" stands as an independent and self-contained category. They did so because "[a] coma has been used between the two sets of phrases, i.e., "any body politic or corporate" and "any authority of or under the control of the Federal Government or of a Provincial Government", which differentiates the two; besides, the word "any" is used separately for both sets of phrases. In fact, the word "any" is also used with the third phrase/set of bodies, i.e., "Court or tribunal, other than the Supreme Court, a High Court or a Court or tribunal established under a law relating to the Armed Forces of Pakistan", creating three distinct categories. *Thus, in light of the foregoing interpretation, a writ is maintainable under Article 199(1)(c) of the Constitution against any person including the body politic or corporate for the purpose of enforcement of any of the Fundamental Rights conferred by the Constitution*", See, *Pakistan Olympic Association*, supra, at p.6 (emphasis supplied in italics).

9. In this context, it is important to note that the definition of "person" provided in Article 199(5) applies to the entirety of Article 199 including Art.199(1)(c). The interpretation advanced by the *Pakistan Olympic Association* Court was specifically confined to Article 199(1)(c), which deals with the enforcement of fundamental rights. Within this limited scope, the Court affirmed that the High Court's possess broad writ jurisdiction, enabling them to proceed against any "person," including bodies politic or corporate, without being restricted by formal classifications such as individual status, institutional nomenclature, or statutory origin, save for those entities expressly excluded under Art.199(5). This had the effect of broadening the jurisdiction of the High Court under Art.199(1)(c).

10. Be that as it may, the interpretative exercise undertaken by the *Pakistan Olympic Association* Court was fundamentally aimed at enforcing the rights of an "aggrieved person," that is, an individual whose fundamental rights have been violated. If the Court had declined to provide relief merely on the ground that the Pakistan Olympic Association does not qualify as a "person" within the meaning of Art.199(5) of the Constitution of 1973, the inevitable result would have been to render fundamental rights redundant. Such an approach would defeat the very purpose for which fundamental rights are guaranteed, as rightly asserted by Mr. Karim, these rights exist primarily to be "enforced". Any interpretation that allows their violation to go unremedied, simply because the offending body is not a traditional public authority or is not directly connected with the affairs of the Federation or a Province, would undermine the constitutional scheme.

11. In continuation to our finding regarding Art.199(5) with reference to *Pakistan Olympic Association*, we observe that the Art.199(5) also

begins with the phrase “unless the context otherwise requires.” In our view, this indicates that provisions such as Article 199(1)(c) are not strictly confined or limited by the definition provided in Article 199(5). Rather, the inclusion of the phrase “unless the context otherwise requires” creates flexibility and allows the word “person” to be interpreted according to situation, however, subject to the scope of the jurisdictional clauses of Art.199. However, the term “any person” in Article 199(1)(c) cannot, by any reasonable interpretation, be restricted only to those performing functions related to the affairs of the Federation or a Provincial Government.

III

12. The Constitution must always be interpreted as an integrated whole rather than in isolated fragments. See, *Hakim Khan* v. *Government of Pakistan,* PLD 1992 SC 595 (Per NASIM HASAN, J.) at page 616; *Dossani Travels* v. *Messers Travels Shop,* PLD 2014 SC 1 (Per TASSADUQ HUSSAIN JILLANI, CJ.) at p.17. When Article 5 is read alongside the High Courts’ power to issue writs under Article 199 of the Constitution, 1973, it becomes clear that loyalty and obedience to the Constitution are declared to be inviolable duties of every citizen. The deliberate use of the word “citizen” is significant, as it extends this obligation beyond the State to include private individuals as well. This raises an important question: what happens when a private individual violates the fundamental rights of another private individual? Consider a situation where a person unlawfully detains another in a privately operated place of confinement. If the detained individual approaches the High Court for relief, it would be unreasonable for the Court to deny jurisdiction on the ground that the violation was committed by a private person rather than a public authority. Such a restrictive interpretation

by the High Court would be acquiescing to the breach of Article 5 itself. A private individual who unlawfully detains another is acting in direct disobedience to the Constitution, thereby breaching the duty of loyalty imposed on all citizens. This conduct simultaneously infringes multiple fundamental rights of the detained person. Therefore, the High Court cannot remain passive in such circumstances. It must intervene to uphold the Constitution, and its authority to do so flows directly from Article 199(1)(c), which empowers it to remedy the situation and issue "appropriate orders". In this way, Article 5 reinforces the High Court's role by ensuring that constitutional obedience is not merely a state obligation, but a universal one binding on all citizens, thereby justifying judicial intervention even in cases of private wrongdoing.

IV

13. The above analysis is directly connected with Supreme Courts' view in *Human Rights Commission of Pakistan* v. *Government of Pakistan* wherein the Court has already held the Art. 199(1)(c) has firstly, a "wider scope" than Art.199(a)-(b) (**'**other jurisdictional clauses**'**) and secondly, it extends to private parties. See, PLD 2009 SC 507 at p.35[5]. So, in essence, the Article 199(1)(c), we would not say is different but indeed holds a wider scope. One of the reasons, apart from linguistic differences, is that the High Court in Art.199(1)(c) can issue appropriate directives and/or positive directions ensuring the compliance of fundamental rights. See, generally *AF Industries* v. *Federation of*

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[5] The *Human Rights Commission case* provides, "The [j]urisdiction of superior courts to enforce fundamental rights under Article 199(1)(c) of the Constitution is not merely exercisable against persons performing functions in connection with the affairs of the Federation or Province or a local authority but against any person or authority including a government. Some of the fundamental rights by their very nature may be impaired by private persons and there is no embargo on the powers of the High Court to issue such directions as may be appropriate for enforcement of such rights."
If taken from this analogy, the High Court possess authority to issue writ against public bodies and private parties both. We see no reason at all to limit the jurisdiction when an independent regulatory body like Bar Councils violate fundamental rights.

Pakistan, 2010 CLD 765 (Per UMAR ATA BANDIAL, J.)[6]. But when issuing writs in other jurisdictional clauses, it moves on the narrow scope of the law.

14. In continuation of our earlier findings regarding Article 199(5) with reference to the *Pakistan Olympic Association*, and as already observed in preceding paragraphs, it is reiterated that it is important to note that Article 199(5) itself begins with the phrase "unless the context otherwise requires." This qualifying expression introduces an element of flexibility into the definition of "person" provided therein, indicating that such definition is not intended to be applied rigidly in every situation. Rather, it permits the term to be interpreted in light of the specific context in which it is used. When this flexible construction is read together with Article 199(1)(c), which employs the broader expression "any person," the scope of the term becomes significantly wider. The contextual elasticity embedded in Article 199(5), coupled with the expansive language of Article 199(1)(c), makes it clear that the term "any person" cannot reasonably be confined only to those performing functions in connection with the affairs of the Federation or a Provincial Government. However, it must be clarified that when the term "person" is read in conjunction with the other jurisdictional clauses of Article 199, its meaning may become contingent upon the specific language and scope of those respective provisions. We, therefore, refrain from expressing any opinion on the effect or application of Article 199(5) *vis-à-vis* other jurisdictional clauses of Article 199, leaving that question to be determined in an appropriate case. For the purposes of the present case, we have confined ourselves solely to examining the flexibility inherent in Article 199(5), particularly in its application to Article

[6] In this case, the Lahore High Court held a writ petition to be maintainable against a private bank because the Court was of the view that under Article 199(1)(c) of the Constitution, 1973 enforcement of fundamental rights could be against "any person".

199(1)(c), and the consequent breadth of the expression "any person" within that specific context.

V

15. Our analysis must not end with the language of the concerned Articles itself and instead, we compare Art.199(1)(c) and the scope of the earlier Art.184(3) of the Constitution,1973, that, however, now stands omitted. See, Constitution (Twenty-Seventh) Amendment Act, s.29 (2025). The jurisdiction which earlier vested in Supreme Court of Pakistan under Art. 184(3) now vests in this Court by virtue of Art. 175E(3). See, Constitution (Twenty Seventh Amendment) Act, s.21 (2025). The erstwhile Art. 184(3) and the present Art. 175E (3) are identical and the referred jurisdiction is to be exercised on the satisfaction of this Court on an application filed by a person, in this behalf. The comparison of Art. 199(1)(c) and erstwhile Art. 184(3) (presently Art. 175E (3)) shows that they are although not *para materia* but are identical and closely related and knitted in terms of their scope.

16. Art.175E (3) confers original jurisdiction on this Court and the referred jurisdiction is without prejudice to the provisions of Article 199. It provides that "the Federal Constitutional Court shall, if it considers that a question of public importance with reference to the enforcement of any of the Fundamental Rights conferred by Chapter 1 of Part II is involved, have the power to make an order of the nature mentioned in the said Article" (the "said" Article is Art. 199). The interpretation of the interrelation between both these Articles (Art. 199 and erstwhile Art. 184(3) which now is Art. 175E (3)) was seen in various judgments, of which we note three: *Watan Party* v. *Federation of Pakistan,* PLD 2011 SC 997 (Per CHIEF JUSTICE IFTIKHAR MUHAMMAD CHAUDHARY) at p.112;

Captain Salim Bilal v. *PIAC,* 2013 PLC (C.S.) Karachi 1212 (Per MUNIB AKHTAR, J.) at p.9 and *Dossani Travels*, *supra*.

17. In *Watan Party* the Supreme Court formed the opinion that "admittedly, under Article 184(3), this Court exercises *same powers*, which are available to a High Court under Article 199(1)(c). The Court can make an order giving such direction to *any person* or authority including any government exercising power or performing any function and, in or, in relation to, in any territory within its jurisdiction as may be appropriate for the enforcement of Fundamental Rights conferred by Chapter 1 of Part II." (Emphasis supplied in italics). Moving exactly, across these lines, the *PIAC* case echoed the same wisdom though in different words that "[the] jurisdiction of the High Court to enforce fundamental rights has been expressly conferred by Article 199(1)(c). The jurisprudence with regard to the substantive application of this provision is, in our respectful view, essentially the same as that developed by the Supreme Court in relation to its original jurisdiction under Article 184(3). This is because of the express linkage between the two constitutional provisions. However, we note that in recent years in particular, the Supreme Court has taken an expansive and broad view of the jurisdiction to enforce fundamental rights. In our view, the law has developed to the extent that it is not now of any material importance that fundamental rights are engaged as a result of contractual obligations or provisions. What is of primary concern is that fundamental rights should not be curtailed, abridged, infringed or violated. *Furthermore, it is clear that directions under Article 199(1)(c) can be made to any person, which could in appropriate circumstances include even a private person"* (emphasis added in italics).

18. In *Watan Party*, the Court acknowledged that Article 184(3) and Article 199(1)(c) are analogous, and that the High Court's power to enforce fundamental rights corresponds to that of the Supreme Court under Article 184(3). Proceeding on this accepted position, the nature of the Supreme Court's power for enforcement of fundamental rights may be described, in a single word, as "wide." Such breadth would lose its meaning if the High Court were rendered ineffective in situations such as private persons or in cases like the present, where violations of fundamental rights are alleged. It was for this reason that *PIAC* held that, "in appropriate circumstances," a writ may also issue against a private person. This reasoning in *PIAC* cannot be separated from the principle stated in *Watan Party* regarding the analogous jurisdiction under Articles 199(1)(c) and 184(3).

VI

19. This demonstrates that the High Court was justified in holding the writ petition to be maintainable against the Petitioners, since its primary purpose was the enforcement of the Respondents' fundamental rights. We have clearly seen that under Article 199(1)(c) the High Court is not confined to issuing writs for enforcement of fundamental rights only in connection to state functionaries or governmental bodies. It can even be issued against private persons. We see no reason why to limit the rule here and say that regulatory bodies like Bar Councils are immune from writ jurisdiction and the High Court is not empowered to enforce fundamental rights when regulatory bodies like Bar Councils are involved[7]. Such an interpretation is contrary to our judicial precedents on Art.199(1)(c). Depriving the High Court of its power to

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[7] Generally, it is true that writs (certiorari, mandamus, prohibition, quo warranto, habeus corpus) do not lie against Bar Councils but, when it comes to the enforcement of fundamental rights the same could be issued.

enforce fundamental rights is like Hamlet without the prince, complete in appearance but lacking its core purpose.

20. The Petitioner's stance, in actual, requires us to depart from a long line of reasoning that is cemented in the *Pakistan Olympic Association* and was subsequently followed by various judgments. We refuse. The High Court correctly determined that the writ petition was maintainable. We hold that, under Article 199(1)(c), the High Court has the authority to issue writs and grant affirmative directions for the enforcement of fundamental rights against anyone within their territorial jurisdiction, subject only to the limitations recognized by the Constitution and the common law developed over time.

21. In light of our deliberation as set out in Part A of the judgment, we concur with the High Courts' opinion that the writ in the present case was maintainable against the present Petitioners before us.

B

I

22. We now turn to the other aspect of the case: whether suspending the Respondents' lawyering licenses violated their fundamental right under Article 18 of the Constitution (the **"**Economic Freedom Clause**"**)[8]. We conclude that it did.

II

23. The Economic Freedom Clause guarantees financial security to every "citizen" under the Constitution by granting the right to pursue any lawful profession or occupation, as well as to carry on any lawful

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[8] Subject to such qualifications, if any, as may be prescribed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business:
Provided that nothing in this Article shall prevent-
(a) the regulation of any trade or profession by a licensing system; or
(b) the regulation of trade, commerce or industry in the interest of free competition therein; or
(c) the carrying on, by the Federal Government or a Provincial Government, or by a corporation controlled by any such Government, of any trade, business, industry or service, to the exclusion, complete or partial, of other persons.

trade or business. In our view, this clause is framed in broad terms, enabling individuals to earn a livelihood either for themselves or for their families. However, this right is not absolute or without limitation. The Constitution imposes certain qualifications upon the exercise of this freedom. Understanding how these limitations have been conceived and interpreted by the courts is essential before determining whether the Respondents' rights were, in fact, violated.

24. "… [Economic Freedom Clause] is not an absolute right but is liable to certain restrictions. Proviso (a) of article 18 of the Constitution confers upon a Federal or Provincial Government to *regulate* any trade, profession through a licensing system. Proviso (b) of the said article granted power to the Government to regulate trade, commerce or industry in the interest of free competition. Governments have been given power under proviso (c) of the said article, to carry on any trade, business, industry or service, by excluding completely or partially persons to enter into it if trade business, industry or service is owned or controlled by it. The power to *regulate* necessarily includes even a power to prohibit. It implies a power to foster, to protect, control and restoration". See, *Dr. Abdul Samad* v. *Government of Balochistan,* 2009 CLC 1015 (Per AMANULLAH KHAN, J.) (emphasis in italics).

25. "By qualifying the right to business and trade, the Constitution makers wanted to create a balance between the societal needs and the rights of an individual". See, *Dossani Travels, supra* at p.17. "From the plain reading of the above Article, it consists of two parts. The first, which confers upon a citizen a right to choose his profession and business, etc. And is objected towards enabling the citizen to explore and adopt the best for his future and the means of his living and earning; and the best for his expression and recognition of his skill and

the ability. However, this right is not absolute and unqualified, rather the Article itself permits the State through proper legal means to impose certain qualification for the exercise of the right, without possessing which, it cannot be so exercised. Such qualification may also be prescribed for a person who intends to conduct a particular business or trade, which may involve some special skill and the expertise. The second part of the Article, permits only such profession or the business, etc." See, *e.g., Information Systems Limited* v. *Federation of Pakistan,* 2012 CLC 958 at p.21.

26. "The Supreme Court of Pakistan has consistently approached Article 18 with a perspective that seeks to balance individual economic freedoms with the state's regulatory authority. The balance between rights and regulations is also evident in the courts' emphasis on reasonableness and proportionality. Any restriction imposed by the state must have a clear, legitimate objective, and its scope must be proportional to the problem it seeks to address". Ref. Fazail Asrar Ahmed, Implications of Article 18 of the Pakistan Constitution: Evaluating Landmark Judgements of the Supreme Court, 5 Pakistan Journal of Law, Analysis and Wisdom (2026). Accordingly, the proper approach to determining a breach of the Economic Freedom Clause is to assess whether any impugned law, measure, or action that regulates or restricts economic activity pursues a compelling interest and is narrowly tailored to achieve that objective.

27. In the situation before us, we first see that the license of Mr. Shabbir Hussain Gigyani, as an Advocate to practice law, was suspended on account of violation of the Resolutions dated 29.09.2025 and 04.10.2025 passed by the Peshawar High Court Bar Association for the primary reason of representing Mr. Shah. See Part I, para 2 above.

Ref. Order by Appellate Committee KPK Bar Council dated 08.10.2025. Even though a provincial Bar Council (in case of Advocate High Court) is competent to suspend or cancel license of an Advocate High Court in cases of misconduct, however, in the present case we see absolutely no compelling interest or reason that the Bar Council was restricting lawyers from representing an individual accused of murder. Its trite law, we must say, that every individual has the right to be represented by the "legal practitioner" of his own choice (subject to legal limitations), and the same is rooted in our fundamental guarantee of fair trial. See Pakistan Const. Art. 10 cl.1 & Art. 10A (1973). When the Bar Council proceeded against Mr. Gigyani on account of him representing a client, accused of murder, the Bar council effectively placed an embargo on the Mr. Gigyani to pursue his profession and the same action was not in pursuance of any compelling interest nor narrowly tailored for achieving that objective (if any existed).

28. On the other hand, the suspension of Mr. Afridi's license was premised on his appearance before the court on a day when a "strike" had been announced. Ref. Office Order by Executive Committee issued on 08.10.2025. It is, however, well-settled that "[t]he lawyers' have, no right to go on strike or to give a call for boycott and abstain from appearance in courts in pursuance of a call for strike or boycott". See, e.g., *Kaura Khan* v. *The State*, 2023 MLD 1260 (Per MUHAMMAD HASHIM KHAN KAKAR, J.) at p.16. "It is by now firmly entrenched in our jurisprudence that the right of access to justice is a fundamental right, enshrined in Article 9 of the Constitution of the Islamic Republic of Pakistan and is equally found in the doctrine of due process of law, which includes the right to be treated in accordance with law, the right to a fair and proper trial as well as the right to have an impartial

court or tribunal." See, *Senior Joint Director Foreign Exchange Operations Division* v. *Federation of Pakistan*, PLJ 2025 SC 510 (Per SHAKEEL AHMED, J. concurring) at p.3 (internal quotation marks omitted). The practice of calling strikes by Bar Associations or Bar Councils is common in the sub-continent. This practice is not only illegal but also in violation of the right of access to justice of a litigant and his counsel. When a strike call is made the lawyer bodies restrict lawyers from appearing before the courts, so in essence a litigant, on that day, is deprived of his right of legal practitioner to represent him, and the hearing in his case is adjourned without any progress in the cause. This tantamount to denial of access to justice. Our legal system is already over-burdened and cause lists before the courts are hefty and litigant has to wait for years and years for the matter to culminate and in such state of affairs the strike call on part of the lawyer bodies add to the plight of the litigant. Regardless of how noble the cause of the lawyers strike is, it is neither the solution nor the way to voice their concern as it is done at the cost of a litigant waiting for redressal of his grievance or justice to be served. The denial of access to justice in any form is a violation of the Constitution whether it be in the form of non-appearance before the courts or closure of administrative or judicial court work. In the circumstances in hand, the breach of the Economic Freedom Clause stands attracted where Mr. Afridi, or, indeed, any advocate, is precluded from appearing before a court to plead on behalf of a litigant. No compelling interest is demonstrated, nor is the impugned action of the Bar Council narrowly tailored to secure any such interest. In truth, no such interest is made out where advocates are restrained from discharging their professional function of appearing before the courts.

III

29. In both instances, the lawyers were engaged in the pursuit of their legal profession. The Economic Freedom Clause extends its protection to the practice of such profession, and indeed, this is a classic case in which an individual's right to pursue his profession stood violated. While the Constitution permits regulation, such regulation must remain balanced against societal and public interest. In striking that balance, it must be ascertained whether the impugned measure serves a compelling interest and is narrowly tailored to achieve that end. In the present case, we hold that preventing lawyers from representing their litigants, or from approaching or appearing before the courts, is wholly impermissible. This, in essence, is the very situation that the Economic Freedom Clause is designed to safeguard.

C

30. The Peshawar High Court's analysis dealt with the jurisdictional defects of the cases as well. In relation to Mr. Gigyani's case the Peshawar High Court formed the opinion that an appeal was entertained by the Appellate Committee KPK Bar Council on account of an appeal preferred not by KPK Bar Council but by KPK Bar Association and no disciplinary action was proceeded against Mr. Gigyani in the KPK Bar Council. Ref. *Shabbir Hussain, ibid* at p.22. In relation to Mr. Afridi's case, the Peshawar High Court held that Executive Committee of the Bar Council lacked the jurisdiction to entertain disciplinary proceedings. *Ibid* at p.23.

31. We are in agreement of the same and find no infirmity in the aforementioned reasoning of the Peshawar High Court.

D

32. In light of our reasoning in Part A, B and C of this judgment, the instant petitions are dismissed, and we refuse leave to appeal. The impugned judgment is affirmed.

JUDGE

JUDGE

Islamabad
31.03.2026
Misal Shah/
APPROVED FOR REPORTING