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PHC warns DCs against misusing Section 3 of MPO

By Akhtar Amin | February 08, 2016

PESHAWAR: The Peshawar High Court (PHC) has taken serious notice of the misuse of Section 3 of the Maintenance of Public Order Ordinance (MPO) and directed all the deputy commissioners of Khyber Pakhtunkhwa to refrain from misusing the law or else they would face legal action.

A few days ago, the PHC allowed a writ petition filed by a journalist Farhat Shah, correspondent for a private news channel from Nowshera district who was arrested under Section 3 of the MPO.

The administration had claimed in the arrest warrant of Farhat Shah that he was not a journalist and was pressuring government functionaries.A two-member bench comprising of Justice Qaiser Rashid Khan and Justice Roohul Amin Khan directed the deputy commissioner (DC) of Nowshera to release the petitioner forthwith.

The bench observed that there was no substantive material on record to substantiate the impugned order of the DC. “Does the DC understand the language of Section 3 of the MPO? We have already warned DCs of Kohat, Peshawar and Swabi against the misuse of the MPO,” Justice Qaiser Rashid pointed out.

He observed that under the law the DCs cannot arrest citizens on suspicion of involvement in gambling, threatening language or narcotics.“This is the last chance to the DCs to refrain from misusing the MPO,” the judge stressed as the court had warned them in various such cases in the past as well.

Shahid Riaz Burki, a senior lawyer who appeared in the Farhat Shah detention case, said that MPO was being misused by the DCs.The MPO was promulgated over five decades ago by the governor of West Pakistan on December 2, 1960 during the martial law enforced by General Mohammad Ayub Khan.

Since then this controversial law has regularly been used and misused by successive governments. Even the democratic governments never bothered to prevent its misuse.The law is meant for preventive detention and a person could be detained if his activities are prejudicial to public safety or maintenance of public order. However, it has been considered the panacea for all ills by the administration to tackle persons difficult to handle and has been thoroughly misused.

Prior to the introduction of the Devolution of Power Plan of General Pervez Musharraf in 2001, the deputy commissioners/district magistrates were empowered by the provincial government

under Section 26 of the MPO to exercise the powers of issuing detention order under Section 3 of the MPO.

In August 2001 when the new local governments system started functioning, the office of DC was abolished and replaced by District Coordination Officer (DCO), but the home secretary continued to exercise the powers under the MPO.The DCs have been empowered under Section 3 of the ordinance to issue detention orders of a person who is acting in a manner prejudicial to public safety or maintenance of public order.



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