

**IN THE SUPREME COURT OF PAKISTAN**

(Original Jurisdiction)

118/18

**PRESENT:**

**MR. JUSTICE MIAN SAQIB NISAR, HCJ.  
MR. JUSTICE FAISAL ARAB.  
MR. JUSTICE IJAZ UL AHSAN.**

**Constitution-Petition No.66 of 2018**

UNDER ARTICLE 184(3) OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973 FOR GRANTING THE CUSTODY OF PAK-TURK SCHOOLS TO TURKIYE MAARIF FOUNDATION.

Muhammad Sohail Sajid

**Petitioner(s)**

**VERSUS**

Federation of Pakistan through Secretary,  
Establishment Division & others

**Respondent(s)**

For the Petitioner(s): In person.

For the Respondent(s): Ch. Amir Rehman, Addl.AGP  
*For Respondents# 1-5*

Sardar Ijaz Ishaq Khan, ASC.  
*For Respondents# 11*


Mr. Ibrar Saeed, Legal Advisor,  
SECP

Date of Hearing: 13.12.2018.

**JUDGMENT**

**IJAZ UL AHSAN, J-** This petition, under Article 184(3) of the Constitution of the Islamic Republic of Pakistan, 1973 seeks appropriate orders regarding declaration of Pak Turk International Cag Education Foundation (PTICEF) as a terrorist organization in compliance with Pakistan's International Commitments and the granting of Pak-Turk Schools' custody to the Turkiye Maarif Foundation (TMF) along with moveable and immoveable assets of PTICEF. The questions raised are clearly of Public Importance, involve setting up and running of educational institutions, which is a fundamental right. Further, citizens of Pakistan have a right

**ATTESTED**

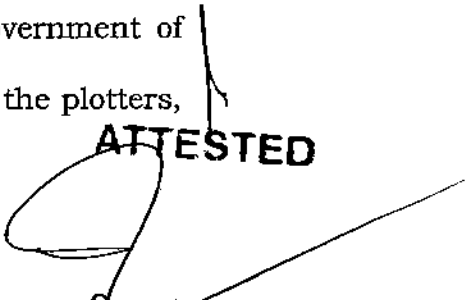
  
Court Associate  
Supreme Court of Pakistan  
Islamabad

to security of person and, a right to education in lawfully set up educational institutions. The citizens of Pakistan also have a right and interest in enforcement of laws to ensure that no terrorist organizations or any entity, having links or nexus with such organizations, is allowed to operate in Pakistan. Hence this Petition is maintainable.

2. The brief facts necessary for decision of this *lis* are that Pak-Turk International Cag Educational Foundation (PTICEF) was established in 1990. A memorandum of understanding was accordingly signed between the Government of Pakistan through its Economic Affairs Division and PTICEF in 1999. The aims and objectives of the PTICEF included dissemination of quality education at low cost to Pakistani students. In this regard, some resources were contributed by the Government of Pakistan, including land for the school buildings at various convenient locations in different cities. In all, 28 schools were established under this arrangement. It appears that in 1999 PTICEF was recognized under Turkish Law and enjoyed the support, backing and guardianship of the Turkish Government.

3. In July 2016, the parent organization of PTICEF, namely Cag Educational Corporation (CEC) was found to be engaged in subversive activities in Turkey. It was found that the CEC was an entity owned and directly controlled by an organization involved in an unsuccessful attempted military coup to overthrow the democratically elected government of Turkey. As a result of popular resistance against the plotters,

**ATTESTED**


  
Court Associate  
Supreme Court of Pakistan

the coup did not succeed. Subsequent investigations established the direct link and nexus of CEC with PTICEF which had set up schools in Pakistan.

4. We have been informed that the Turkish Government declared the PTICEF and its related organizations as Fetullah's Terrorist Organization (FETO). FETO was also recognized as a Terrorist organization by the Organization of Islamic Cooperation (OIC) at its 43<sup>rd</sup> Session of the Council of Foreign Ministers at Tashkent. The OIC declared its full solidarity with the Government and people of Turkey in its fight against FETO to ensure and preserve democracy, justice, security and unity in Turkey. It called upon member States, which include Pakistan, to take every necessary measure against the entities and groups manned or directed by Turkish nationals affiliated with FETO and cooperate with the Government of Turkey to this end. Pakistan being a member of the OIC was a part of the declaration and is bound by the same. The terrorist status of FETO was also recognized by the Asian Parliament Assembly (APA) which required all member States to take necessary measures to stop FETO related entities from operating in the member States.

5. In view of the above declaration of the parent organization of PTICEF as a Terrorist Organization, many countries extradited and expelled members of the foundation from their territories and took over control of the schools established by the foundation. More than 40 Asian countries

**ATTESTED**

  
Court Secretary  
Supreme Court  
Islamabad

have already declared FETO as a terrorist organization and all its moveable and immovable assets have been taken over by the concerned governments. The Government of Turkey has authorized TMF to take over all schools and colleges in different countries operating under the umbrella of CEC including PTICEF.

6. It is pertinent to mention that the PTICEF was granted the status of an International NGO in Pakistan. It is alleged that in order to conceal its designs, the PTICEF has deceptively registered itself as a company with the Securities and Exchange Commission of Pakistan (SECP) without the consent, knowledge or approval of the original signatories of the MoU. We have however been informed that the Ministry of Interior, Government of Pakistan, has already cancelled all MoUs signed with the PTICEF.

7. The TMF has been established under the laws of Turkey. Its objectives include providing educational services and it has been designated as the only organization authorized to provide educational services on behalf of the Republic of Turkey. Therefore, the TMF wishes to take over administrative and financial control of the schools functioning under PTICEF. It has been informed by the learned Deputy Attorney General that a new MoU between the Government of Pakistan and TMF dated 16.11.2016 has already been signed. A large number of countries around the world have already handed over assets of the schools being run under the parent

**ATTESTED**

Supreme Court of Pakistan

organization (CEC) to the TMF which is operating in more than 50 countries.

8. It appears that there is complete consensus and harmony in the views of the Governments of Pakistan and Turkey in this matter. The administrative and financial control of the schools has been agreed to be delivered to TMF and in order to give effect to that arrangement the MoU signed between the PTICEF and the Government of Pakistan has been cancelled and revoked.

9. In order to frustrate the aforesaid arrangement, it appears that the PTICEF had fraudulently got a Section 42 Company registered with the SECP and created a fake Board of Governors to run the schools. Although No Objection Certificate and other documents had earlier been issued in favour of the PTICEF, all such NOCs, permissions and approvals stand revoked by virtue of the parent organization of PTICEF being declared a terrorist organization. It is alleged that the school system is a front to conduct illegal activities. Furthermore, money generated by the said school system is being laundered and channeled into financing unlawful activities of FETO around the world.

10. The petitioner has also drawn our attention to Article 40 of the Constitution which provides that *"to preserve and strengthen fraternal relations among Muslim countries based on Islamic unity, support the common interest of the peoples of Asia, Africa and Latin America, promote international peace and security, foster goodwill and friendly*


ATTESTED

*relations among all nations and encourage the settlement of international disputes by peaceful means* is a Constitutional obligation of the Government of Pakistan.

11. Substantial material has been placed on record indicating that the Turkish Government and its Courts have found FETO to be associated with subversive terrorist activities designed to create political instability, insecurity and strife in the Republic of Turkey. Further, it is fundamentally important to ensure brotherly relations between Pakistan and Turkey who have enjoyed very cordial and fraternal relations from the day Pakistan was created. As a matter of fact, the relationship of Pakistan's Muslim community with the Turkish people dates back to centuries and the Pakistani nation feels great closeness, affinity and warmth for their Turkish brethren and their Government. It is therefore imperative that no steps are taken that may imperil such a relationship or cause any manner of doubt in the minds of the Turkish people or their Government about the unqualified and unconditional support that the Government and people of Pakistan wish to extend in their struggle against all forms of terrorism in Turkey.

12. Notices had been issued to the Respondents which included various departments of the Federal as well as the Provincial Governments. All such Government departments are represented by the learned DAG. Notice had also been issued to the Chairman of Board of Directors of PTICEF.

**ATTESTED**

  
Court Associate  
Supreme Court  
Pakistan

13. Sardar Ijaz Ishaq Khan, learned ASC has appeared on behalf of the PTICEF. On behalf of the Government of Pakistan and other connected departments, we have been informed that the Government of Pakistan fully, unconditionally and without any qualifications, endorses and supports the Turkish decision on FETO and the OIC in this regard. Written comments have also been filed. It has been stated in such comments that PTICEF was registered as a Company under Section 42 of the Companies Ordinance, 1984 on 25.05.2011, pursuant to the NOC issued by the Ministry of Interior and the Turkish Embassy in Pakistan. Furthermore, a license was also issued by the Ministry of Interior for such registration on 12.05.2011 for a period of five years. We have also been informed that PTICEF transferred all assets of the schools in the name of the company in the year 2015. In 2016, the foundation applied for renewal of its license. However, this license has not yet been renewed. We have also been apprised that on 05.08.2018, pursuant to an agreement between the Governments of Pakistan and Turkey and taking into account the aforesaid events, the Ministry of Interior declined to register PTICEF as an International NGO and directed the Chairman of PTICEF to wind up its operations/activities within 60 days.

14. It also appears that in an attempt to deflect attention and prevent recovery and transfer of funds, PTICEF has applied to SECP for change of the name of the company. Such application has been forwarded by the SECP to Ministry

**ATTESTED**

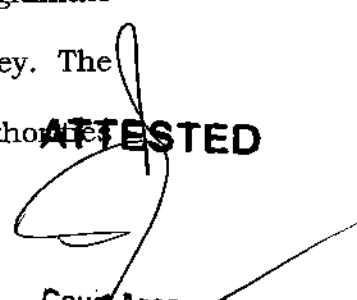
Court Associate  
Supreme Court of Pakistan

of Interior for issuance of NOC. Such NOC has not yet been issued.

15. The learned counsel appearing on behalf of PTICEF has vehemently opposed this petition. He maintains that Respondent No.11 is not a terrorist organization nor does it have any connection with any such organization. The allegations are politically motivated and there is no evidence on record linking PTICEF with FETO or CEC. He submits that just on the basis of a decision taken by the Turkish Government, no action can be taken against PTICEF which in any event enjoys independent registration with SECP as a Section 42 company.

16. We have heard the learned counsel for the parties and examined the record. PTICEF signed an MoU with the Government of Pakistan in 1999 to establish 28 schools to offer quality education at low cost. At that time, PTICEF enjoyed the backing and support of the Turkish Government. As a gesture of goodwill, the Government of Pakistan also made material contributions towards setting up the schools sought to be operated by PTICEF. In this regard, land was provided by the Government of Pakistan, free of charge, for setting up such schools. In 2016, the parent organization of PTICEF was found to be owned and controlled by FETO, an organization involved in an attempted unsuccessful military coup to overthrow the democratic and legitimate constitutional government of the Republic of Turkey. The Turkish authorities have informed the Pakistani authorities

**ATTESTED**

  
Court Associate  
Supreme Court of Pakistan

15/11/2018

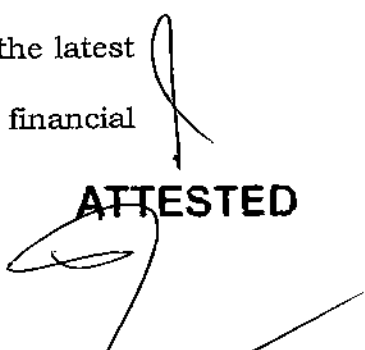


that FETO and its associated organizations were involved in terrorism and destabilization efforts in Turkey. This led the Turkish Government to declare them to be Fetullah's Terrorist Organization (FETO). Such declaration was recognized by the OIC as well as a large number of other countries.

17. After the aforementioned declarations, which constitute international commitments, members of OIC and other international organizations (of which Pakistan is a member) as well as many countries extradited and expelled members of FETO from their territories and took control of the schools, established by entities affiliated with or controlled by it. We have been informed by the Petitioner, which stance is duly endorsed by the learned DAG, that the Government of Turkey has closed down all FETO institutions, schools and entities in Turkey and has transferred their control to TMF by authorizing it to take over the schools and colleges in different countries. The PTICEF had its status as an INGO in Pakistan revoked, and all MoUs signed with it have been cancelled. A large number of members of FETO/CEC have also been prosecuted and punished by Turkish courts.

18. Documents have been provided to us which show that TMF is authorized to take control of the schools. The learned DAG has also informed us that a new MoU has been signed between the Government of Pakistan and the Republic of Turkey for dealing with the transfer and delivery of the schools' assets to TMF. We have also gone through the latest MoU which indicates that the administrative and financial

**ATTESTED**

  
Court Associate  
Supreme Court  
Islamabad

control of the schools has been agreed to be transferred to TMF.

19. There are serious allegations that the schools set up by PTICEF were a facade behind which illegal activities were taking place including money laundering and generation and transfer of funds to the parent organization, namely FETO, to finance subversive and terrorist activities. On perusal of the record, the documents submitted before us and arguments addressed by the learned counsel, we are in no manner of doubt that the Government of Pakistan has international obligations towards the Government of Turkey to declare FETO as a terrorist organization and take appropriate steps to take over assets held by entities controlled by or affiliated with it and transfer the same to such other entities as it may consider appropriate keeping in view the aims and objectives for which these educational institutions and schools were set up. We also find that the registration of PTICEF and its Section 42 Company with SECP is liable to be cancelled on account of withdrawal of NOCs, authority letters and other documents issued by the Government of Pakistan. We therefore direct the SECP to cancel registration of Section 42 company set up by PTICEF immediately, in consequence of which the Board of Directors shall cease to exist and shall stand disbanded with immediate effect. The application filed by the current management of PTICEF to change the name of the company to "Golden Generation Education Foundation", also stands rejected in view of our finding that the company was in the first instance

**ATTESTED**

Court Associate  
Supreme Court of Pakistan

unlawfully registered, having gone beyond the scope of the MoU which did not authorize registration of any company. Furthermore, all permissions, approvals and NOCs issued by the competent authority stand withdrawn on account of discovery of its links with terrorist organizations. Therefore, we find that there is neither lawful reason nor justification either to allow the company to exist or to change its name in order to camouflage its real activities. Likewise, the application moved by PTICEF, which has been forwarded to the Ministry of Interior for issuance of NOC, shall also stand rejected.

20. As far as the assets of the PTICEF are concerned, it is evident from the record that the land on which the schools in question were established belong to the Government of Pakistan and the funds which are available in its accounts, parts of which have been expended for construction of schools, vest in the Government of Turkey with whose cooperation and support, such schools had been established. Therefore, in view of the MoU signed between the Government of Pakistan and the Government of Turkey, it is directed that all moveable and immovable assets of PTICEF and its schools, colleges, tuition centers or other entities, shall stand vested in TMF with immediate effect. The management and financial control of such schools shall be exercised by TMF in accordance with the decisions made in meetings and understandings between officials of the two Governments held on 16.11.2016 and 22.02.2017 and the terms agreed in the MOU which are the governing documents

**ATTESTED**

for this purpose. All law enforcement agencies, including FIA and the police, are directed to provide full support, assistance and backup to TMF to take over management and control of 28 schools set up by the PTICEF.

21. The Ministry of Interior is directed to declare FETO as a proscribed organization and to include it in the 1<sup>st</sup> Schedule to Section 11B of the Anti Terrorism Act, 1997. In view of the fact that TMF is an organization recognized by the Government of Turkey and the Government of Pakistan and has been designated to take over, operate, and manage the educational institutions and related entities previously run by the PTICEF, it shall have full powers to do so, subject to general supervision and control by the Government of Turkey and the Government of Pakistan, whose orders, directions and recommendations if and when issued from time to time, shall be binding on the management of TMF.

22. We have also been informed that PTICEF and/or all its schools, colleges and entities have accounts in various banks where funds are being retained for the purposes of its activities in Pakistan and abroad. We accordingly direct that with immediate effect all such accounts shall be frozen, blocked and no transaction of any nature shall be allowed to be conducted. The Ministry of Finance is directed to take up the matter with the State Bank of Pakistan in order to take steps to give custody of such accounts (maintained with various banks) to TMF, which shall be deemed to have stepped into the shoes of PTICEF with full powers to operate

**ATTESTED**

accounts through its duly authorized officers and use funds available in such accounts purely for educational activities and administrative needs of the schools in Pakistan for their efficient and proper operation in accordance with the law.

23. As far as the arguments of learned counsel for Respondent No.11 are concerned, we are not persuaded by the same. He has not placed any document on record that may substantiate his pleas. Further, in view of the categorical statement made by the learned DAG that the Government of Pakistan fully endorses and supports the decision of Turkish Government on FETO, and acknowledges the decisions/resolutions of the OIC, we are of the view that the case of the Petitioner stands fully established. Further, the material available on record clearly shows that PTICEF was found by the concerned investigative and judicial authorities of the Republic of Turkey to have direct link and nexus with FETO. This material is adequate and sufficient for this Court to grant relief without second guessing the position taken by the Government of Turkey as well as the Government of Pakistan. Even otherwise, all permissions, approvals and NOCs issued in favour of PTICEF by various Ministries and Governmental Organizations in Pakistan already stand cancelled/withdrawn and in view of our earlier direction that PTICEF may be declared as a terrorist organization on account of such declaration by the OIC, APA and other entities, we find no reason to override such declarations and resolutions and substitute them with our own. These represent international commitments of the Government of

ATTESTED  
CONFESSED  
Supreme Court  
2018

Pakistan towards the international community and more importantly towards the Republic of Turkey, with which the Government and People of Pakistan enjoy close and highly cordial, fraternal and brotherly relations spanning over centuries.

24. We, accordingly issue the following declarations/directions:-

- (i) *All the moveable and immovable assets of PTICEF and its schools, colleges, tuition centers and other similar entities shall stand vested in TMF with immediate effect.*
- (ii) *The management and financial control of such schools/institutions shall vest in and shall be exercised in accordance with decisions made in meetings between officials of Government of Pakistan and Government of Turkey held on 16.11.2016 and 22.02.2017. The Law enforcement Agencies, including FIA and Police, are directed to provide full support and assistance to representatives of TMF to take over management and control of the 28 Schools set up by PTICEF.*
- (iii) *The Ministry of Interior shall declare PTICEF as a proscribed organization. Its name shall be included in the First Schedule to Section 11-B of the Anti-Terrorism Act, 1997.*
- (iv) *All accounts in the name of PTICEF and/or any of its Directors, Administrators, employees etc, wherever held in Pakistan, shall immediately be blocked/frozen. No transaction or transfer of funds from the said accounts shall be allowed. The Ministry of Finance shall take up the matter with the State Bank of Pakistan in order to take all necessary steps and issue directions to give custody of accounts and funds held therein to duly authorized representatives of TMF which shall be deemed to have stepped into the shoes of PTICEF, with full powers to operate the accounts and use available funds solely for educational activities and administrative needs of the schools.*
- (v) *Direction is issued to the Securities and Exchange Commission of Pakistan (SECP) to declare the Section 42 Company created by PTICEF as defunct on account of its illegal and unauthorized initial registration and its affiliation with a terrorist organization and remove its name from the registers of SECP.*

**ATTESTED**

Confidential

25. For the foregoing, this Constitution Petition is allowed in the aforementioned terms.

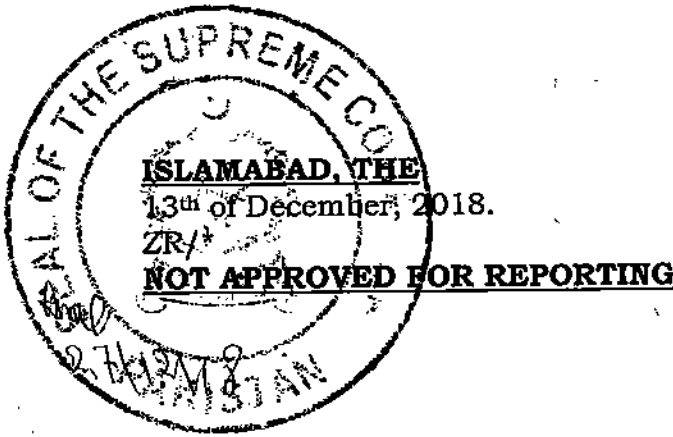
Sd/-HCJ

Sd/-J

Sd/-J

Certified to be True Copy

Court Associate  
Supreme Court of Pakistan  
Islamabad



CR No:	3116/18	Civil/Criminal
Date of Present:	15.12.18	
No of Words:	4500	
No of Pages:	45	
Requisition Fee:	5-00	
Copy Fee:	27.90	
Court Fee:	32.90	
Date of Completion of Copy:	27/12/18	
Date of delivery of Copy:	27/12/18	
Compared by:		
Received by:		