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JUDGMENT SHEET
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Writ Petition No.840 of 2019

Muhammad Ahmad Pansota and others **V/S** *Federation of Pakistan etc.*

J U D G M E N T

Date of hearings	12.11.2019
Petitioner(s) by	Barrister Muhammad Ahmad Pansota, Petitioner No.1 with Ms. Eamaan Noor Bandial, Advocate. Barrister Haroon Mumtaz, ASC for the Petitioners No.3 to 5 with M/s Hafsa Ahmad and Mehak Adil, Advocates.
Respondent(s) by	Mr. Ishtiaq A. Khan, Additional Attorney General assisted by Ms. Sadia Malik, Assistant Attorney General and Barrister Minahil Tariq, Advocate. Barrister Umair Khan Niazi, Additional Advocate-General alongwith Capt.(R) Muhammad Usman, Director General, Punjab Food Authority. Mr. Iftikhar Ahmad Mian, Advocate on behalf of Punjab Food Authority alongwith Usman Ahmad, A.D.(Legal), PFA.
Assistance By	M/S Sher Hassan Pervez, Muhammad Kashif Pasha and Hamid-ul-Rehman Nasir, Civil Judges/Research Officers of Lahore High Court Research Center.

JAWAD HASSAN, J. Through the instant petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (the “**Constitution**”), the Petitioners have sought directions to the Respondents, *inter alia* to:

- (a) *legislate on the preservation, conservation, management of food in Pakistan;*
- (b) *take positive steps towards preservation, conservation, management of food in Pakistan;;*
- (c) *carry out evaluation and assessment regarding the condition of food wastage and management,*
- (d) *place on record latest research and reports conducted, drafted and formulated on issue of food security and wastage;*
- (e) *place on record all actions taken to create awareness about food preservation and prevention of its wastage in last five years;*
- (f) *fulfill their fiduciary responsibilities under the Doctrine of Public Trust and ensure preservation, conservation and proper management of food;*
- (g) *declare that conservation and prevention of food wastage is the part of fundamental right to food and is the right of every person wherever they may be;*
- (h) *appoint Commissions to investigate matters relating to circumstances of the case;.*
- (i) *demand accountability of all food waste;*
- (j) *tax waste in a manner that discourages wastage and discarding of surplus food; and*
- (k) *provide for a mechanism of “continuous mandamus” or “rolling review” so as to ensure compliance of orders*

2. At the outset, Mr. Sarfraz Hussain, Advocate filed an application for his impleadment as the Petitioner, who is a *probono publico* and a “Public Spirited Advocate”. Further, Barrister Muhammad Haroon Mumtaz, ASC also filed an application for impleadment of Fahad Bin Hamid, Hafsa Amad and Mehak Adil in the array of the Petitioners in this petition, who are advocates and running the Lahore Chapter of the “Robin Hood Army” a non-governmental initiative run by volunteers and aimed at collection of surplus food and its re-distribution among the needy in Lahore. The learned counsel for the Petitioner No.1 had no objection on acceptance of these applications, and therefore, both applications were allowed and the aforesaid applicants were arrayed as the Petitioners No.2 to 5.

3. It may also be noted that learned counsel for the Petitioner No.1 requested to implead certain departments including Punjab Food Department, Government of Punjab, Punjab Food Authority through its Director General, Indus Consortium for Humanitarian, Environmental & Development Initiative and Pakistan Agricultural Research Council through its Chairman as the Respondents in this petition, and his request was allowed. The Petitioner No.1, therefore, filed amended petition by including the names of these Respondents; and notices were issued to the newly added Respondents to file report and parawise comments.

I. PETITIONERS’ ARGUMENTS

4. The Petitioner No.1 in person alongwith Ms. Eamaan Noor Bandial Advocate submits that this writ petition has been filed seeking

directions to the Respondents to legislate on preservation, conservation and management of food in Pakistan. She submits for enforcement and protection of fundamental rights guaranteed under Article 4 (Right of individual to be dealt in accordance with law), Article 9 (Right of liberty) and Article 14 (Right of dignity). The counsel for the Petitioner No.1 objected to two issues: *a)* high hunger levels in Pakistan and *b)* wastage of edible food on the grounds of: *i)* contradiction with the Islamic way of life under of Article 31 of the Constitution and *ii)* violation of the intrinsic right to food under Articles 38(d), 4, 9, 14 of the Constitution and the signed International treaties. Eamaan Noor Bandial, Advocate relied on research and studies conducted by various international and regional organizations to stress upon the fact that there are high hunger levels in Pakistan while edible food is discarded/wasted due to lack of efficient management. She submitted that right to food is in-fact a matter of public importance. Relied on HUMAN RIGHTS CASE NO.18877 OF 2018 (**PLD 2019 SC 645**). She further added that this Honourable Court possesses the authority to direct the Punjab Food Authority to consider developing a mechanism that redirects surplus /excess/leftover food to the deprived or underprivileged thus enabling us to align our ways to the Islamic way of life, fulfills constitutional promises, fight hunger in Pakistan and work towards the greater good of the public. Moreover, the counsel stressed upon salience of Right to Food and Food Wastage in Islam by arguing that Article 31 of the Constitution under the Chapter- Principles of Policy requires Muslims

to observe Islamic principles and moral standards derived from the Holy Quran and Sunnah. In our religion utmost importance is given to one's right to food, wastage thereof is forbidden and extravagance is discouraged in Islam. Relied on "ABDUL MAJEED versus ADDITIONAL DISTRICT JUDGE, FAISALABAD" (PLD 2012 Lahore 445).

5. Barrister Muhammad Ahmad Pansota, Advocate submitted that this Honourable Court may direct the Punjab Food Authority to align its ways, control mechanisms and guidelines with the above mentioned Islamic principles. Further submitted that the right to life includes the right to food by placing reliance on SUO MOTU CASE NO.13 OF 2009 (PLD 2011 SC 619) and "AL-RAHAM TRAVELS AND TOURS (PVT.) LTD. Versus MINISTRY OF RELIGIOUS AFFAIRS, HAJJ, ZAKAT AND USHR" (2011 SCMR 1621). Further added that under international law the right to food is recognized as an intrinsic human right. The Universal Declaration of Human Rights of 1948 first recognised the right to food as a human right, it was then incorporated in the International Covenant on Economic, Social and Cultural Rights, 1966 (Article 11).

6. Barrister Muhammad Ahmad Pansota and Ms. Emaan Noor Bandial Advocates further added that according to Global Hunger Index (GHI), Pakistan ranks 106th out of 119 qualifying countries with a score of 32.6 out of 100. They state that although there are certain food laws in Pakistan i.e. Punjab Pure Food Ordinance, 1960 (the

“*Ordinance*”) and the Punjab Food Authority Act, 2011 (the “*Act*”) regarding sale and production of food but they do not address the issue in hand i.e. wastage of food, its conversion, utilization and recycling. Eamaan Noor Bandial, Advocate further draws the attention of the Court that 40 percent of the cooked food is wasted in Pakistan and even more food is wasted than consumed in the holy month of Ramadan, on the ceremonies of marriage as well as in restaurants etc which is also contrary to teachings of Islam and strictly prohibited. Both the counsels also argued that the wastage of food also causes a host of social and environmental implications including the shortage of food which as a result occurs food prices to go up to alarming levels leading to inflation in the country. Therefore, by placing proper regulations in place this food can be given to the needy and those who don’t have food at all instead of wasting it. Thus necessary measures must be taken in order to overcome food wastage in the country. They brought into the notice of the Court the “National Food Policy, 2017” wherein the government of Pakistan had expressed its strong commitment for the realization of Sustainable Development Goals (SDGs) as a national agenda, both at Federal and Provincial levels but despite formulation of aforesaid Policy, the Respondents have failed to implement the same for the benefit of the Country. They next argued that the Respondents are not adhering to their own Food Policies which is in violation of case law reported in “BAHADUR KHAN AND OTHERS Versus FEDERATION OF PAKISTAN THROUGH SECRETARY M/O FINANCE, ISLAMABAD AND

OTHERS” (2017 SCMR 2066) opining *inter alia* the importance attached to government adhering to sovereign commitments made by it, whether in form of statutory orders or notifications issued by it or in the shape of policies announced by it. Both the counsels referred to a recent judgment of this Court “SHEIKH ASIM FAROOQ Versus FEDERATION OF PAKISTAN etc” (PLD 2019 Lahore 664). They argued that it is the responsibility of the State under Article 38 of the Constitution to take legislative action and to enforce fundamental rights guaranteed under Article 4, 9 and 14 of the Constitution and under international law the right to food is a human right and is a binding obligation well-established under international law. The Universal Declaration of Human Rights of 1948 first recognized the right to food as a human right and it was then incorporated in the International Covenant on Economic, Social and Cultural Rights (Article 11) adopted in 1966 and ratified by 156 states, including Pakistan in 2008. Lastly, both the counsels contend that the Respondents department should take necessary steps by taking legislative measures in order to reduce food wastage all over the country.

7. Learned counsel for the Petitioners No.3 to 5 also adopted the arguments advanced by M/s Muhammad Ahmad Pansota and Eamaan Noor Bandial, Advocates.

8. The Petitioner No.4/Hafsa Ahmad Advocate though supported the arguments, extended by learned counsels, but added that right to food has been recognized internationally through various laws in many

countries. She further stated that right to food and its being wastage has been protected by the provisions of the Constitution. She agreed with the draft Regulations which were made by Capt.(R) Usman, Director General, PFA after conducting various meetings and provisions with regard to wastage of food have been incorporated in that Regulations. She also relied on laws made by different countries regarding preservation, conservation, management and wastage of food.

II. RESPONDENTS' ARGUMENTS

9. After initial submissions of the Petitioners, notices were issued to the Respondents to file report and parawise comments by adverting to the assertions made by the Petitioners in the light of judgments of the superior Courts.

10. Vide order dated 13.02.2019, Secretary Food Department, Government of Punjab and Director General, Punjab Food Authority were directed to constitute a committee to prepare draft under Section 57 of the Punjab Food Authority Act, 2011 after consultation and discussion with experts, social workers, legal fraternity, academics and other stakeholders. Hence, as per directions of this Court, meetings were convened by Mr. Shoukat Ali, Secretary Food and Capt.(R) Muhammad Usman, D.G. PFA on 19.02.2019, 23.02.2019, 25.02.2019 and finally the last meeting was held on 30.10.2019 in which the Committee and Sub-Committee finalized the draft after receiving inputs from all the stakeholders including Petitioners and their

counsel. On 29.10.2019, Assistant Director (Legal), PFA appeared and stated that Secretary Food Department has constituted the committee and sub-committee including the Petitioners and other stakeholders to finalize the Draft Regulations. Under Section 57 of the Punjab Food Authority Act, 2011, the Punjab Food Authority has made the “Draft of Punjab Food Authority (Disposal of Excess Food), Regulation, 2019. The Committee and Sub-Committee finalized the Draft Regulations which were filed in the Court.

11. Arguments heard. Record Perused.

III. CONSTITUTIONAL MOOT POINTS

12. In the instant public interest petition, the Petitioners have sought directions to the relevant ministries, departments and other authorities of the Provincial or Federal Government under Article 199 of the Constitution to take positive steps towards preservation, conservation and management of waste food in Punjab. The Respondents departments and authorities have presented their oral and written arguments; in which they have undoubtedly admitted the importance and need to manage preserve and conserve food in Punjab and Pakistan; and have highlighted their performance in this regard.

13. Following constitutional moot points arise out of the instant petition:

- a. Whether directions can be issued to the relevant ministries, departments and other authorities of the provincial or federal government under Article 199 of the Constitution to implement the mandatory provisions*

of law? If yes, whether the doctrine of continuing mandamus is applicable in the instant matter?

- b. Whether right to food and conservation, prevention and management of food wastage are Fundamental Rights under the Constitution?*
- c. Whether the Constitution makes it mandatory for laws to be in compliance with the Holy Quran and Sunnah?*
- d. Whether the International law and treaties which recognize right to food as an intrinsic human right are applicable in Pakistan?*
- e. What steps have been taken by the Punjab Food Authority for conservation, prevention and management of food wastage?*

IV. NATURE OF LITIGATION AND LOCUS STANDI OF PETITIONERS

14. Before going further into the merits of this writ petition, I would like to throw some light on the nature of this writ petition and locus standi of Petitioners to file this petition. Instant writ petition is in the nature of public interest litigation. Public interest litigation is a powerful tool for individuals and groups to combat illegalities, injustice and social ills, which promote and protect the larger public interest in case of violation of any fundamental rights. It is an innovative strategy which has been evolved over the years to provide easy access to justice to the weaker/marginalized sections of humanity. It is a powerful tool in the hands of public, spirited

individuals and social action groups used for combating exploitation and injustice and for securing for the underprivileged segments of society their social and economic entitlements especially in matters of public importance. A matter of public importance is interpreted by **august Supreme Court in Human Rights case No. 18877 of 2018** reported at **PLD 2019 SC 645** in the following terms:

“6. ...after considering the dictionary meaning of "public importance" and case-law regarding this aspect, that the term refers to a "question, which affects and has its repercussions on the public at large and it also includes a purpose and aim, in which the general interest of the community, particularly interest of individuals is directly or vitally concerned...”

15. Regarding the Court’s power to adjudicate upon matters of public importance, the Supreme Court has held that:

“4...It is also settled and I am in no manner of doubt that the powers of this Court under Article 184(3) supra are akin to the powers of the High Courts under Article 199 supra with the addition that such powers can be exercised by this Court of its own motion (suo motu), if information of the nature discussed above is placed before it showing that a question of public importance involving enforcement of Fundamental

*Rights conferred by Chapter I of Part II of the
Constitution is involved...*

16. So, “*public interest litigation*” is, therefore, in the interest of the public at large. It is a legal action or proceeding initiated for the protection or enforcement of the rights of public at large. It is totally different from traditional litigation which is essentially of an adversary character, where there is a dispute between two litigating parties, one making a claim or seeking relief against the other and that other opposing such claim or resisting such relief. Public interest litigation is brought before the court not for the purpose of enforcing the rights of one individual against another, as happens in ordinary litigation, but it is intended to promote and vindicate the public interest. It demands that violation of constitutional or legal rights of a large number of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and unredressed. It is an effort to provide legal representation to groups and interests that have been unrepresented or under-represented in the legal process. These include not only the poor and the disadvantaged but ordinary citizens. So, as long as the public interest prayed for is bona fide and not based on any vested interests, the principles of locus standi/aggrieved person are to be interpreted liberally by the Courts because superior courts are bound to protect the Fundamental Rights of citizens in exercise of jurisdiction conferred via Art.199 or Art.184 (3) of the Constitution. So this writ petition

is very much maintainable and petitioners have *locus standi* to file the instant writ petition.

V. DOCTRINE OF CONTINUING MANDAMUS

17. Continuing Mandamus is a writ of mandamus issued to an authority by the High Court under Article 199 of the Constitution in general public interest asking the officer of the authority to perform its task expeditiously for an unstipulated period of time to prevent miscarriages of justice. The Doctrine of Continuing Mandamus, at times also referred to as structural interdict or structural injunction, in other words, is a relief given by a Court of law through a series of ongoing orders over a long period of time, directing an authority to do its duty or fulfill an obligation in general public interest, as and when a need arises over the duration a case lies with the Court, with the Court choosing not to dispose off the case in finality. This happens in a situation which cannot be remedied instantaneously but requires a solution over a long time, at times going on for years. With this procedural innovation of the writ of mandamus or a mandatory order, the Court monitors compliance of its orders, seeking periodic reports from authorities on the progress in implementing them. Reliance is placed on "MALL ROAD TRADERS ASSOCIATION Versus The DEPUTY COMMISSIONER, LAHORE" (2019 CLC 744).

18. Moreover, in the article published in **10 NUJS L. REV (2017), 'CONTINUING MANDAMUS' – A JUDICIAL**

INNOVATION TO BRIDGE THE RIGHT-REMEDY GAP, the right to food with regard to continuing mandamus in Indian context was discussed at **page 34** in the following words:

*“The Supreme Court in **PUCL v. Union of India (2007 (12) SCC 135)** had undertaken this herculean task of, after recognising right to food as a part of Article 21, to oversee its effective realisation. Standing out from most similar struggles, the device of continuing mandamus used in the PUCL case, coupled with cooperation from civil society, led to tangible success of the drawn-out litigation. In 2001, the PIL filed by PUCL brought to the fore the issue of starvation death in various parts of the country while food stocks reached unprecedented levels. The massive litigation has been expanded to cover a wide range of related issues including implementation of schemes, urban destitution, the right to work, starvation deaths, maternity entitlements and even broader issues of transparency and accountability.*

The case has been called the most spectacular case of a Court protecting the ‘right to food’. Active litigation saw the right to food struggling take on the shape of a massive national movement that remains an active initiative.

VI. RIGHT TO FOOD AS A FUNDAMENTAL RIGHT IN PAKISTAN WITHOUT ITS BEING WASTAGE.

19. The right to life of a citizen is protected under Articles 4, 9 and 14 in Chapter I of the Constitution as produced below:

4. Right of individuals to be dealt with in accordance with law, etc.-

(1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be and of every other person for the time being within Pakistan.

(2) In particular-

(a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;

9. Security of person.-

No person shall be deprived of life or liberty save in accordance with law.

14. Inviolability of dignity of man, etc.—

(1) The dignity of man and, subject to law, the privacy of home, shall be inviolable....

20. Under Article 38 (d) of the Constitution contained in the Principles of Policy, the right to food is protected.

38 Promotion of social and economic well-being of the people.—The State shall—

(a) secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants;

... (d) provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment;

21. The right to life can only be enforced if certain ingredients are present, food being the first and foremost. Pakistan's Courts have repeatedly held the right to food a necessity of life and thus an extension of the right to life. Its interpretation has been stretched to the extent of it being labelled an economic right. Such fundamental, economic, constitutional rights must be interpreted in light of the remaining Articles contained in the Constitution. Our Honourable courts in the following judgments have interpreted the right to life to include the right to food, which was the subject matter of the petition.

August Supreme Court in its *Suo Moto Case no. 13 of 2009* reported at **PLD 2011 SC 619** has held that:

*“32 ... right to life...implies the **right to food**, water, decent environment, education, medical care and shelter...”*

22. Furthermore, the Supreme Court in “Messrs Al-Raham Travels and Tours (Pvt.) Ltd” case reported at **2011 SCMR 1621** has held that:

*“31....a man cannot think for individual or collective development when he cannot meet the basic necessities **life** such as minimum **food**, clothing and housing. The right to those basic necessities of life are basically and fundamentally economic rights...”*

23. Providing its citizens with food, especially those who do not have access to it and/or cannot afford it is a primary obligation of the State, violation of which will not just breach the right to food but also the right to life, security and dignity. It was held by august court in **Miss Benazir Bhutto case** reported at **PLD 1988 SC 416** that:

“...The intention of the framers of the Constitution is to implement the principles of social and economic justice enshrined in the Principles of Policy within the framework of Fundamental Rights. Chapters I and II of Part II of the Constitution which incorporate Fundamental Rights and directive principles of State policy, respectively occupy a place of pride in the

scheme of the Constitution, and these are the conscience of the Constitution, as they constitute the main thrust of the commitment to socio-economic justice...”

24. Likewise, **Human Rights Case No. 17599 of 2018** reported at **2019 SCMR 247** in a matter regarding the alarmingly high population growth rate in the country, the **august Supreme Court** has held that:

“3. ...Fortified with the above cited paragraph, we are inclined to conclude that fundamental rights such as the right to free speech or information are of no use to those struggling with malnutrition, hunger and starvation. Economic prosperity is thus a sine quo non for the implementation of all fundamental rights, the paramount right being that of life...”

*14. ...As mentioned in the beginning of this opinion, it is undeniable that the right to life and several other rights are meaningless if owing to overpopulation, people are deprived of basic amenities such as **food**, water etc...”*

25. Moreover, the Indian Supreme Court has also recognized the state’s duty to enforce the right to food as a constitutional right in its judgment of **Swaraj Abhiyan v. Union of India** case reported at **(2016) 7 Supreme Court Cases 498** in following words:

‘...There is undoubtedly a distinction between a statutory obligation and a constitutional obligation but there can be no doubt that the right to food is

actually a constitutional right and not merely a statutory right. (See for example: Shantistar Builders v. Narayan Khimalal Totame [Shantistar Builders v. Narayan Khimalal Totame, (1990) 1 SCC 520] .) In any event, even if the right to food is a statutory right, it would be the obligation of the State to make all possible efforts and some more to ensure that to the extent possible, adequate foodgrains are available to all and particularly to those in drought-affected areas. There can hardly be any dispute on this. In this context, it would be worth recalling the Preamble to the NFS (National Food Security) Act 2013 which states that it is “An Act to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and for matters connected therewith or incidental thereto.”

VII. ISLAMIC COMMANDS REGARDING RIGHT TO FOOD AND ITS WASTAGE

26. Eamaan Noor Bandial, Advocate in her written arguments has referred some verses of Holy Quran and Ahadith regarding wastage of food which ordains a balanced approach to food management and towards attaining sustainable food security. This approach includes many social, spiritual, resource supply, security, and institutionally-related perspectives. Thorough study of Islamic teachings depict that the right to food is accepted as a basic human right in Islam. Regarding concept of right to food, **Imam Sarakhsi (R.A.)** says:

- *“Allah (S.W.T) has created the sons of Adam (A.S.) in such a way that his body cannot live without four*

things, i.e., food, water, clothes and house.” [22 (2Abi Bakr Muhammad bin Ahmed al Sarakhsi al Hanafi, al-Mabsut, Vol. 30 (Cairo: Maktabaha al-Sahadha, 1324-31/1906-13), 123)].

27. The extent to which hunger and poverty are treated as serious issues in Islam is reflected in the analogies drawn between apostasy, *kufr* and hunger and poverty in the following Ahadiths of Hazrat Muhammad (P.B.U.H.).

a. “Oh Allah (S.W.T)! I take your refuge from hunger; no doubt hunger is a bad friend.” (37Sunan Abu Da’wod, Kitab-us salat, Hadith No.1336.)

b. “The time is near when poverty and hunger will lead to kufar.” (40 (Bahaiqi, Shua-bulIman, Hadith No.6319).

c. “Allah I ask your refuge from apostasy and poverty” thereupon a person enquired: Are the two similar? The Messenger (SAW) said ‘Yes.’” [42 (Al Nisai, Sunan –as-Sughra, Kitabadaab-ul-Qadah, AlIstiazaminazzillah, Hadith No.5412)].

28. Allah Almighty says the Al-Quran, includes all needed management particulars and rules for all aspects of life and related activities which includes food management particulars and rules. However, these are not listed in a separate chapter or section of the book, and people should seek to understand these particulars and rules and derive the needed management framework which suits them, over time and space. It is stated that bounties of and from Allah (including food) are given freely to all creatures (regardless of religion) and not

denied to anyone of them (**Al-Qura'n, 17:20; 39:36**). Also Allah assured all creatures including humans that there is sufficient sustenance for all on earth (**Al-Qura'n, 38:44; 11:6**). Extravagance and wastage is strictly prohibited in Islam. Following Verses and Ahadis ordain the instructions in this respect.

➤ **The Holy Quran says:**

- *'Give to the near of kin his due, and also to the needy and the wayfarer. Do not squander your wealth wastefully, for those who squander wastefully are Satan's brothers, and Satan is ever ungrateful to his Lord.'* **Surah Al-Isra'a (17:26-7)**
- *'eat and drink: But waste not by excess, for Allah loveth not the wasters.'* **Al-A'raf (7:31)**
- *'O you who believe! Do not make unlawful the wholesome things which God has made lawful for you, but commit no excess for God does not love those given to excess.'* **Al- Ma'idah (5:87)**
- *'And He it is who causes gardens to grow, [both] trellised and untrellised, and palm trees and crops of different [kinds of] food and olives and pomegranates, similar and dissimilar. Eat of [each of] its fruit when it yields and give its due [zakah] on the day of its harvest. And be not excessive. Indeed, He does not like those who commit excess.'* **Al-An'am (6:141)**

➤ **Ahadiths of The Holy Prophet (PBUH):**

- It is narrated by **al-Tirmidhi** that the Prophet (PBUH)said: *"The son of Adam does not fill any*

vessel worse than his stomach. It is sufficient for the son of Adam to eat a few mouthfuls, to keep him going. If he must do that (fill his stomach), then let him fill one third with food, one third with drink and one third with air.” **Narrated by al-Tirmidhi (2380); classed as saheeh by al-Albaani in al-Silsilah al-Saheehah (2265)**

- In **Fataawa al-Lajnah al-Daa’imah**, it is mentioned that Holy Prophet (PBUH) said ‘Leftover food must be saved for the next time or it should be given to the needy; if there are no needy people, then it should be given to animals, even after it has dried out, for the one who is able to do that.’ (22/341)
- *“He is not a believer whose stomach is filled while the neighbour to his side goes hungry.” (Sahih Al-Bukhari, Volume 7, Hadith 552)*

VIII. KEEPING IN VIEW OF RAMIFICATION OF HUNGER, SOCIAL–SPIRITUAL PERCEPTIONS OF ISLAM ABOUT CHARITY:

29. Keeping in view the importance of food and ramifications of hunger, charity/philanthropy is given unparalleled importance in Islam. Islam imposes a duty on privileged Muslims to share their wealth with and help the ones in need. In Islam there are two types of charity: regular (called zakat, which is obligatory) and voluntary (called sadaqah which is given by Muslims by their free will). Muslims are commanded to do no more than: to worship Allah, offering Allah sincere devotion and being true (in faith); to establish regular Prayer; to practice regular Charity; and that is the religion

right and straight (**Qura'n, 98:4**). Followings are some more versus of the Holy Quran and Ahadiths of Holy Prophet (PBUH) about charity.

➤ **The Holy Quran** says:

- *'And from their properties was [given] the right of the [needy] petitioner and the deprived.'* [**Surah Adh-Dhariyat 51:19**]
- *"(The righteous are those) who feed the poor, the orphan and the captive for the love of God, saying: 'We feed you for the sake of God Alone; we seek from you neither reward nor thanks.'* [**Surah Al-Insan 76:8-9**]
- *And as for the petitioner, do not repel [him]* [**Surah Ad-Duhaa 93:10**]

➤ **The Holy Prophet (PBUH)** said:

- *"Tell them that Allah has imposed on their goods, Sadqah (Zakat) which will be realized from their haves and distributed among their have-nots."*⁷ (**Sahi Bukhari, "Kitab-uz-zakat", Hadith No.1342**)
- *"He is not a believer whose stomach is filled while the neighbor to his side goes hungry."* (**al-Sunan al-Kubrá 19049, Grade: Sahih (authentic) according to Al-Albani**).

30. Likewise, famous Islamic scholar **Maulana Abulala Maududi**, in his well celebrated book *Tafheem-ul -Qur'an*, Vol. 5 has stated that:

"Thus it is incumbent on the wealthy Muslims to help out the poor and the needy irrespective of the fact

whether they ask for assistance or not, it is their duty to reach them and give all the help that they can extend. (Abulala Maududi, Tafheem-ul -Qur'an, Vol. 5 (Lahore: IdarahTarjman-ul Quran, 1984), 139; [See also, Akhtar Khalid Bhattai and Gul-e-Jannat, The Holy Quran on Human Rights (Karachi: Royal Book Co., 1996), 83.]”

X. CONSTITUTIONAL OBLIGATION OF STATE TO IMPLEMENT FUNDAMENTAL PRINCIPLES AND CONCEPTS OF ISLAM:

31. Article 31 of the Constitution casts a duty upon the state functionaries to implement the fundamental principles and basic concepts of Islam. Article 31 elaborating the principle of policy in the Constitution requires Muslims to observe Islamic principles and moral standards derived from the Holy Quran and Sunnah. To have a glimpse of same reads as follow:

31. Islamic way of life.-

(1) Steps shall be taken to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah.

(2) The State shall endeavour, as respects the Muslims of Pakistan,-

(a) to make the teaching of the Holy Quran and Islamiat compulsory, to encourage and facilitate the learning of

Arabic language and to secure correct and exact printing and publishing of the Holy Quran;

(b) to promote unity and the observance of the Islamic moral standards; and

(c) to secure the proper organisation of Zakat, 1[ushr,] auqaf and mosques

32. Furthermore, Article 227 (1) of the Constitution makes it mandatory for laws to be in compliance with the Holy Quran and Sunnah. Same is reproduced hereunder:

227. (1) Provision relating to the Holy Quran and Sunnah

All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah, in this Part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such Injunctions.

XI. JUDICIAL PRONOUNCEMENTS RECOGNIZING ISLAMIC TEACHINGS AND PRINCIPLES AS BASIC SOURCE OF EVERY LAW:

33. The Supreme Court has also held that such Islamic teachings shall be observed and that fundamental rights shall be fully guaranteed. In the **Watan Party case** reported at **PLD 2011 SC 997**, **august Supreme Court** has held that:

“This aspect of the Islamic teachings, as well finds its reflection in the Constitution of the Islamic Republic of Pakistan 1973. The Constitution, in its very Preamble, postulates that the principles of

democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed and the fundamental rights, including equality of status, of opportunity and before the law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality; shall be fully guaranteed. These very principles have been made a substantive part of the Constitution under Article 2A. Thus, it is the duty of the State to protect and safeguard all these Fundamental Rights including the right to life and liberty as envisaged by Article 9 of the Constitution”

34. Regarding the State’s duty under Article 38 of Constitution, in Constitutional Petition No.52 of 2013 **Regarding enormous increase in the price of flour** reported at **2014 SCMR 329, august Supreme Court** has held that:

“4. It is also to be noted that under Article 38 of the Constitution of Islamic Republic of Pakistan it is responsibility of the State to secure the well being of the people by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and to make adequate livelihood with reasonable rest and leisure. Clause (d) of the same provides that the State shall make available basic necessities of life, such as food, clothing, housing, education and medical relief for all such citizens irrespective of sex, caste creed or race. But, prima facie, it appears that no such mechanism has been adopted so far by the Government in this respect.”

35. In its judgment cited as “ABDUL MAJEED versus ADDITIONAL DISTRICT JUDGE, FAISALABAD” **PLD 2012 Lahore 445** the Court highlights that:

“...It is a mandate considered in Article 31(1) of the Constitution to take steps to enable the Muslims of Pakistan, individually and collectively to order their lives in accordance with the principles of Islam. Hence, any organ of the State can be directed by an order of the Court to observe the Principles of Policy in their respective spheres of work...”

XII. RECOGNITION OF RIGHT TO FOOD IN INTERNATIONAL JURISDICTION:

36. Ms. Hafsa Ahmad in her written arguments has highlighted that the human right to food is a universally recognised right. It was first recognised as a fundamental human right in 1948. It is an entitlement which derives from the assertion that society has enough resources both economic and institutional to ensure that everyone is adequately nourished. Under international law the right to food is recognised as an intrinsic human right. The Universal Declaration of Human Rights of 1948 first recognised the right to food as a human right, it was then incorporated in the International Covenant on Economic, Social and Cultural Rights, (Article 11) adopted in 1966 and ratified by 156 states, including Pakistan in 2008, making its provisions binding on all parties.

i) Article 11, International Covenant on Economic, Social and Cultural Rights states:

‘Right to an adequate standard of living including basic income, food, housing, water, sanitation and clothing and the continuous improvement of living conditions’ The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources’...’’

37. The Government bears a responsibility to ensure equitable distribution of food within its borders and has committed to preventing food wastage in all forms. Below are a handful of international commitments that Pakistan has made.

ii) Article 25 of Universal Declaration of Human Rights (UDHR) 1948

38. Article 25 of the UDHR categorically states that the right to an adequate standard of living is inclusive of the right to food:

“(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing

and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

39. While interpreting the right to food under the International Covenant on Economic, Social and Cultural Rights, General Comment No. 12 by the UN Economic and Social Council on the Committee on Economic, Social and Cultural Rights (1999) states:

“The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”

iii) Article 24 (2)(c), Convention on the Rights of the Child

1989 , ratified by Pakistan in 1990 states:

‘State Parties...shall take appropriate measures:...to combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.’

iv) Article 28, Convention on the Rights of Persons with

Disabilities 2006, ratified by Pakistan in 2011 states:

‘State Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate

food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.’

v) The Universal Declaration on the Eradication of Hunger and Malnutrition, adopted at the 1974 World Food Conference, states:

“The Conference consequently solemnly proclaims:

1. Every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties. Society today already possesses sufficient resources, organizational ability and technology and hence the competence to achieve this objective. Accordingly, the eradication of hunger is a common objective of all the countries of the international community, especially of the developed countries and others in a position to help.

2. It is a fundamental responsibility of Governments to work together for higher food production and a more equitable and efficient distribution of food between countries and within countries. Governments should initiate immediately a greater concerted attack on chronic malnutrition and deficiency diseases among the vulnerable and lower income groups. In order to ensure adequate

nutrition for all, Governments should formulate appropriate food and nutrition policies integrated in overall socio-economic and agricultural development plans based on adequate knowledge of available as well as potential food resources. The importance of human milk in this connection should be stressed on nutritional grounds.

...

6. The efforts to increase food production should be complemented by every endeavour to prevent wastage of food in all its forms.”

XIII. FOOD SHORTAGE/INSECURITY IN PAKISTAN:

40. According to the United Nations’ Food and Agriculture Organization (FAO), food insecurity is defined as a situation that exists when people lack secure access to sufficient amounts of safe and nutritious food for normal growth, development, an active and healthy lifestyle. It may be caused by the unavailability of food, insufficient purchasing power, or the inappropriate distribution or inadequate use of food at the household level. Food insecurity, poor conditions of health and sanitation, and inappropriate care and feeding practices are the major causes of poor nutritional status. Food insecurity may be chronic, seasonal, or transitory. Despite the fact that Pakistan is essentially an agricultural country, given the percentage of agricultural products it exports and the people employed in this sector, Pakistan is on the verge of facing food shortages in the future. A high population growth and unfavourable water and climatic conditions in the country has led the country towards an alarming state regarding

food security and this situation may worsen manifolds in the near future. Unfortunately, Pakistan is among those seven countries that cumulatively account for two-thirds of the world's under-nourished population (along with Bangladesh, China, Congo, Ethiopia, India and Indonesia). Following are some of reports/indexes of International Organizations regarding food shortage in Pakistan.

a) World Food Programme Fact Sheet on Hunger in Pakistan, issued in April 2016; states that 6 out of 10 Pakistanis are food insecure. This would amount to approximately 43% of our population, which is around 41 million people

b) Country Case Study by Concern Worldwide on the Global Hunger Index 2017 states that: *'Pakistan ranks 106th out of 119 qualifying countries. With a score of 32.6, its status is 'serious' (bordering on 'alarming)'* page 2

c) USAID Food Assistance Fact Sheet, September 2018 states: that Pakistan is a food surplus country, meaning there is sufficient food to feed all but inadequate mechanisms for everyone to gain access to this surplus food.

XIII. INTERNATIONAL APPROACH TOWARDS PRESERVATION OF FOOD AND FOOD SECURITY:

41. Before going further, we will have a glimpse of international approach towards conservation of food and avoidance of its wastage which were highlighted by Hafsa Ahmad, Advocate.

i. FRANCE:

- France has established laws for the conservation of food that impose fines on supermarkets up to €75,000 for binning edible surplus food. The French parliament has declared it illegal to bin food that is either in excess or rejected by the supply chain because of approaching expiry dates or failure to meet aesthetic commercial standards; rightly forcing distributors to redirect it to the poor, or pay fines.

iii. ITALY:

- The Italian parliament has also declared it illegal to bin food that is either in excess or rejected by the supply chain. The Italian apex court has gone one step further and declares that the “right to survival prevails over property” as it justified stealing food to satisfy one’s hunger.

iii. PHILIPPINE:

- The Philippines also abides by the ‘Zero Food Waste Act’ that imposes a duty on the state to promote and facilitate reduction of wasted food through redistribution among the deprived and, recycling. Such facilitation is carried out through bodies which monitor need, consumption and wastage of food by demanding accountability.

iv. BRITAIN:

- Britain has also recently appointed its first food waste chief in an attempt to curb the thousands of tons of food being wasted. Its government has entered into agreements with various multinationals that have agreed to donate surplus food.

XIV. STEPS TAKEN BY THE PUNJAB FOOD AUTHORITY

42. Pursuant to the order dated 13.02.2019, Secretary Food Department, Government of Punjab and Director General, Punjab Food Authority were directed to constitute a committee to draft Regulations on disposal of excess food, after consultation with experts, social workers, legal fraternity, academics and other stakeholders. As per directions of this Court, meetings were convened by Secretary Food and D.G. PFA on 19.02.2019, 23.02.2019, 25.02.2019 and finally last meeting was held on 30.10.2019 in order to finalize Draft Regulations on disposal of excess food. On 29.10.2019, Assistant Director (Legal), PFA appeared and stated that Secretary Food Department has constituted the committee and sub-committee including the Petitioners and other stakeholders to finalize Draft Regulations and under Section 57 of the Punjab Food Authority Act, 2011, the Punjab Food Authority has made the “Draft of Punjab Food Authority (Disposal of Excess Food), Regulation, 2019.

43. Chapter I of the Regulations consists of definitions including those of excess food and food fit for human consumption assuring the

Punjab Food Authority that no food shall be distributed that may pose a threat to the donee's health.

44. Regulations III, IV and V in Chapter II cover the methods of donation and disposal of excess food. They impose a duty on food operators to donate excess food to food donors that may directly collect this from the food operators. It goes on to describe what is fit (labeling irregularities so long as they do not have the potential to cause allergies) or unfit (expired food stuffs) for donation.

45. Regulation IV and V cover concerns of the Punjab Food Authority, outlining certain standards that must be met by food operators at the time of donation and/or food donors at the time of distribution, for example the packaging of the food must be intact, it must be stored in optimal conditions depending on the requirement of the particular kind of food as contaminated food will affect quality, violate hygiene and safety requirements and is thus unfit for donation or distribution.

46. Regulation VI discusses ways to minimize food wastage by entering into agreements with supermarkets to donate excess food and setting goals to reduce food wastage drastically in the next few years.

47. Chapter III of the Regulations highlight prerequisites of the donation process: the donation process will be subject to monitoring by the Punjab Food Authority, donor organisations will have to obtain a license; additionally both food operators and donor organisations are required to report to the Authority. While these Regulations equip the

Authority to monitor the donation process Regulation IX states that such scrutiny shall not act as a disincentive for donor organisations.

48. In short, the Punjab Food Authority (Disposal of Excess Food) Regulations were drafted under the supervision of the Punjab Food Authority exercising its powers under section 57 of the Punjab Food Authority Act 2011 and setting standards and guidelines in relation to any food, food places, food walkers and food handlers.

Following these Regulations, food operators including restaurants, caterers, supermarkets and all those who ‘manufacture for sale, transport, store, distribute or import or export food’ are instructed to donate excess food to food donors who shall further distribute them amongst the underprivileged. This will ensure equitable distribution of food with an added advantage of ensuing dignity of person receiving food on account of such re-distribution.

XV. DETERMINATION BY THE COURT:

49. This petition was filed in order to highlight the inaction of the Respondents Department for not implementing the laws, policies and strategies regarding preservation, conservation and management of excess food in Punjab and Pakistan and to implement them by passing certain directions to the concerned quarters to perform their duties as per law. In view of Verses of Al-Quran, Ahadiths, provisions of Constitution of Pakistan 1973, laws, international laws and judicial pronouncements discussed above, word “Right to life” clearly means right to food including protection against wastage of excess food. Article 4 of the Constitution provides that to enjoy protection of law

and to be treated in accordance with the law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan and no action detrimental to the life etc. of any person shall be taken except in accordance with law and likewise Article 9 of the Constitution provides that no person shall be deprived of life or liberty save in accordance with law. Scope of fundamental right to life was expanded by **august Supreme Court** in **SHEHLA ZIA CASE** reported at **PLD 1994 SC 693** by holding that the word "life" in the Constitution has not been used in a limited manner and a wide meaning be given to enable a man not only to sustain life but to enjoy it.

50. As discussed above, the word 'life' includes the right to adequate food and there is no concept of life and body without adequate food, which is basic necessity of life. Article 9 read with Articles 3 and 4 and examined under Article 38(d) of Constitution obligates the State to promote the social and economic well-being of the people and to provide basic necessities of life including food. Since the preamble of the Constitution of Pakistan provides that whereas sovereignty over the entire Universe belongs to Almighty Allah alone and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust, so as discussed above Islamic ordains requires the state to provide all basic necessities of life, including adequate food, to its subjects and to strive for the protection of wastage of excess food. Pakistan is a resourceful country and the amount of food produced here, which includes major

commodities such as wheat, rice and sugar besides different vegetables and fruits, can be sufficient for feeding the population. However, lack of resources for food management and its distribution is the main problem. The right to food is a vital human right and if denied human life becomes agonizing and its enjoyment is infringed. It is the duty of the State to legislate, to protect the wastage of excess food and to start awareness campaigns to sensitize the people in this regard to achieve the target of food security. The basic concept of food security portrays a situation where a person has physical, economic and social access to safe, sufficient and nutritious food for living an active and healthy life.

51. Furthermore, **Article 38(a) of the Constitution** accentuates the State's duty to improve living standards by preventing the concentration of wealth in the hands of a few. Thus, the Petitioners' prayer to formulate a mechanism under law to save excess/surplus/leftover food following Islamic principles (under Article 31 of the Constitution) and distributing it among the less privileged will amount to safeguarding the right to food in accordance with Islamic teachings, Provisions of the Constitution and international law. Principles of Policy aid a purposive interpretation of fundamental rights in the constitutional framework in which they are found. Moreover, availability of food for those in need and promoting and establishing lifestyles in accordance with Islamic standards are duties of the State.

52. Thus if one violates the right to food, the enjoyment of other human rights, such as the right to health, education, life, adequate housing, work and social security may be marred and vice versa. The crux of the idea behind the right to food is that no citizen of a country should go hungry and at all times, they must have access to or the means to acquire adequate nutritious food. Thus the enforcement of the right to food, which claims a minimum quantity of food of a certain quality, should protect against deprivation of means of subsistence and should provide sustenance to those who are unable to do so at their own.

53. The Punjab Government Rules of Business, 2011 allocates the business of policy and planning of food security to the Food Department and the Punjab Food Authority. Laws may be explored to tackle the matter of food wastage including the Punjab Pure Food Ordinance 1960, Punjab Pure Food Rules 2011 and Punjab Food Authority Act 2011. These laws may be amended to incorporate a mechanism to check the amount of food being wasted by the entities involved in the food businesses; be it the producers, storage facilitators or distributors. These sources primarily focus on the maintenance of food quality, so these laws may be amended to create a check and balance on the wastage of food and to make arrangements for consumption of excess food by those who are in need. Management of this food may properly be administered employing the relevant provisions of the Punjab Bait-ul-Maal Act, 1991 and the Punjab Charities Act, 2018 because under the Constitution, the State

is under a duty to ensure the well-being of its people and providing those citizens with food, who do not have access to it and/or cannot afford. It is a primary obligation of the State, violation of which will breach the fundamental right of life including the right of food.

54. This Court has taken up the matter in hand because of issue of ‘Justiciability’ which refers to the right of people to have a recourse to a judicial or other effective remedy when their rights have been violated. In Pakistan, justiciability is effected through case laws and our Superior Courts have played an important role in the recognition/interpretation and implementation of the fundamental rights of people. As a result, people would be in a better position to seek a remedy for violations against their right to food, if the right to food is justiciable in Pakistan.

55. Pakistan has ratified international human rights treaties which enshrine the right to food. The language of these agreements signifies that Pakistan has agreed to work within an international human rights framework and has an obligation to take steps to respect and fulfill such rights. This creates moral, legal and ethical imperatives to bring this human right framework home by developing a domestic food policy infrastructure based on the right to food. As signatory to the above conventions and treaties, Pakistan is bound to honour its international commitments. Respondents are duty bound to adhere to their own policies under the doctrine of sovereignty in the light of case law reported "DEWAN SALMAN FIBRE LTD. Versus FEDERATION OF PAKISTAN and others" (2015 PTD 2304),

"NATIONAL BANK OF PAKISTAN Versus IFTIKHAR RASOOL ANJUM and others" (2017 PLC (C.S.) 453) which was upheld by the Hon'ble Supreme Court of Pakistan in "BAHADUR KHAN and others Versus FEDERATION OF PAKISTAN through Secretary M/o Finance, Islamabad and others" (2017 SCMR 2066). The August Supreme Court in Bahadur Khan case reported at 2017 SCMR 2066 has held that:

"Commitment made on behalf of government should neither be lightly disregarded nor deliberately ignored. Orderly development of a civilized society requires that citizens should be entitled to place implicit faith and confidence on representations which are made by or on behalf of duly constituted governmental authorities."

56. International conventions to which Pakistan is a signatory that address economic, social and cultural rights could be interpreted as legally binding according to our own Constitution. Importantly, provisions in the Constitution such as those guaranteeing equality and freedom from discrimination would appear to protect economic rights including the right to food.

XV. FUNCTIONS AND RESPONSIBILITIES OF DEPARTMENTS UNDER THEIR RESPECTIVE RULES OF BUSINESS

57. Under Punjab Government Rules of Business, 2011, Punjab Food Authority (PFA) comes under the Food Department in Column No.3, Schedule-I which has the mandate to have legislation, policy formulation and planning as a measure of food security under Schedule-II. Since PFA has prepared the Regulations therefore, it

comes under the Food Department which has a clear cut mandate to make policy on Food Security and administration of food laws regarding anything related to food and food business. Therefore, issue of regulation of excess food comes under their domain.

58. The Respondent No.1/Ministry of National Food Security and Research (National Food Security and Research Division) functions under the Federal Government Rules of Business, 1973 and has the mandate regarding economic coordination and planning with the aid and assistance of agencies in respect of the food sector. Therefore, the Ministry may make policy on the issue of food wastage /excess of food similar to the Regulations made by the PFA.

59. The Respondent No.4/Chief Secretary may direct Social Welfare and Bait-ul-Mal Department to coordinate with the Food Department and initiate programs with their coordination in order to save food wastage and to dispose of excess food from home consumption, to the poor and those in need. Under Schedule-II, of the Punjab Government Rules of Business, 2011, Social Welfare and Bait-ul-Mal Department has the mandate to financially assist the poor and needy, and through this interplay, food may be provided to citizens by the concerned departments with coordination of food donor organization etc.

XVI. DIRECTIONS:

60. In view of the above, this Court allows this writ of mandamus under Article 199(1(a) (i) of the Constitution and directs the Government Departments performing their functions within the

jurisdiction of this Court in connection with the affairs of the Federation and the Province of Punjab and other local authorities under the respective laws, mentioned in this judgment to do anything, they are required by law to do IN ORDER TO PRESERVE, CONSERVE AND MANAGE EXCESS OF FOOD AND WASTAGE OF FOOD. The draft Regulations finalized by PFA, as informed to this Court, shall be notified expeditiously and once it is notified, the same shall be implemented in *stricto sensu* by the concerned Authorities. The following directions are issued to the concerned Authorities which are as follows:

- (1) All the applicable laws and the relevant directions and judgments of the Hon'ble Supreme Court and High Court mentioned herein above, shall be implemented in letter and spirit in order to ensure fulfillment of the obligation under Article 189 and 201 of the Constitution.
- (2) All the Respondents shall take steps to preserve, manage and conserve the food wastage in Pakistan and the Punjab.
- (3) The Concerned Departments shall, through the media and other means, inform and apprise the public and all the stakeholders (i.e. NGOs and Hotel Associations etc) regarding importance of preserving, conserving and managing excess food and the Regulations, once notified.

- (4) The Concerned Departments shall ensure establishment of a management system whereby food can be channelized to persons in need through strict compliance of the relevant provisions of the Punjab Bait-ul-maal Act, 1991 and the Punjab Charities Act, 2018.
- (5) The Punjab Government shall revise and amend the Existing laws if so required i.e. Punjab Pure Food Ordinance 1960, Punjab Pure Food Rules 2011 and Punjab Food Authority Act, 2011 with respect to keep a check on the amount of food being wasted by persons/organizations dealing with food businesses i.e. the producers, storage facilitators or distributors (restaurants, transporters etc.).

61. Before parting with this judgment, I appreciate the efforts of all Government Departments whose representatives appeared before this Court from time to time and complied with orders under the doctrine of *continuous mandamus* and prepared the Regulations. I would also appreciate the efforts of the Petitioners and their counsels that they brought a public importance issue before the Court and by appreciating the role of Government regarding preparation of draft Regulations. Special thanks to Mr. Shoukat Ali, Secretary Food, Govt. of the Punjab and Capt.(R) Muhammad Usman, Director General Punjab Food Authority. I would also appreciate the efforts of Research officers of this Court, Law Officers and the learned counsel of the Petitioners, who played an important role in highlighting such a vital issue and in this

regard, the efforts of Kamran Sheikh, representative of Lahore Restaurants Association, Ms. Sadia Malik, Assistant Attorney General, representative of Charities including the Lahore Chapter of the “Robin Hood Army” and Rizq Foundation, Syed Hussain Jafar and Asad Sheikh, (Food Influencers) and Yamna Kamran, Student of Kinnard College.

**(JAWAD HASSAN)
JUDGE**

Announced in open Court on the 24th day of December 2019.

APPROVED FOR REPORTING

JUDGE

*Usman**