

IN THE FEDERAL SHARIAT COURT
(ORIGINAL JURISDICTION)

PRESENT

JUSTICE IQBAL HAMEEDUR RAHMAN, CHIEF JUSTICE
JUSTICE KHADIM HUSSAIN M. SHAIKH, JUDGE
JUSTICE DR. SYED MUHAMMAD ANWER, JUDGE
JUSTICE AMEER MUHAMMAD KHAN, JUDGE

SHARIAT PETITION NO.01-I OF 2024

Fayyaz Ali Khan son of Hakeem Dad Khan,
R/o Al Fayyaz Pak International, House No.18, Main Bazar Karamat
Colony, Wahdat Road, Lahore.

Petitioner....

VERSUS

Federation of Pakistan through Secretary, Law and Justice Division,
Islamabad

Respondent....

For Petitioner	:	In-person
For State	:	Mian Muhammad Faisal Irfan, DAG for Federation of Pakistan. Mr. Sana Ullah Zahid, Add: A.G., Punjab Mr. Ahsan hameed Dogar, Advocate on behalf of A.G., Sindh. Mr. Anees Muhammad Shahzad, Advocate on behalf of A.G., KP. Mr. Tahir Iqbal Khattak, Addl: A.G., Balochistan.
Date of Institution	:	26.01.2024
Date of Hearing	:	23.04.2024
Date of Judgment	:	23.04.2024

JUDGMENT

IQBAL HAMEEDUR RAHMAN-CJ. The Petitioner by way of
instant Shariat Petition has challenged Article 262 of the Constitution
of Islamic Republic of Pakistan, 1973 and prayed that:-

“Order may kindly be passed to declare Islamic
lunar calendar as official calendar of Islamic

republic of Pakistan and ask the respondent to make all efforts to insert Islamic calendar instead of Gregorian calendar in all official record of the Gov't. It is further prayed that petitioner may kindly be allowed to argue his case for elaboration of his research and point of view along with his counsel. Any other relief if this Court deems fit may also kindly be awarded please in the interest of justice, please".

2. The impugned Article 262 of the Constitution is reproduced hereinbelow:-

"262. For the purposes of the Constitution, periods of time shall be reckoned according to the Gregorian calendar."

3. Before dealing with the impugned Article 262 of the Constitution, it is pertinent to mention that powers to examine under Article 203 B (c) of the Constitution on the touch stone of injunction of Islam contained in the Holy Quran and Sunnah of the Holy Prophet (ﷺ), which is reproduced here for the sake of convenience:-

"203B.
(a)
(b)
(bb).....
(c) "law" includes any custom or usage having the force of law **but does not include the Constitution, Muslim personal law, any law relating to the procedure of any court or tribunal** or, until the expiration of 3[ten] years from the commencement of this Chapter, any fiscal law or any law relating to the levy and collection of taxes and fees or banking or insurance practice and procedure; and"

(Emphasis added)

The above Article envisages that the law to be examined and decided, inter alia, includes any custom or usage having the force of

law but does not include **the Constitution, Muslim personal law and any other law relating to procedure of any Court or tribunal.** In the light of this bar contained in the Constitution itself under Article 203 B (c), this Court is not empowered to examine any Article of the Constitution.

4. In view of the above, this petition from its face is not maintainable. The petitioner has also not been able to satisfy the Court as to how this petition is maintainable in view of embargo contained in Article 203B (c) of the Constitution of the Islamic Republic of Pakistan, 1973. Accordingly, this petition being not maintainable is dismissed.

IQBAL HAMEEDUR RAHMAN
CHIEF JUSTICE

KHADIM HUSSAIN M. SHAIKH
JUDGE

DR. SYED MUHAMMAD ANWER
JUDGE

AMEER MUHAMMAD KHAN
JUDGE

Dated:23.04.2024
Ajmal/*

Approved for Reporting