

General Clauses Act, 1897

By

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- **“24-A. Exercise of power under enactments. – (1)Where, by or under any enactment, a power to make any order or give any direction is conferred on any authority, office or person such power shall be exercised reasonably, fairly, justly and for the advancement of the purpose of the enactment.**

2. The authority, office or person making any order or issuing any direction under the power conferred by or under any enactment shall, so far as necessary or appropriate, give reasons for making the order or, as the case may be, for issuing the direction.

3. Where any order made or any direction given in exercise of the powers conferred by or under an enactment affects any person prejudicially such person may require the authority, office, or person making the order or giving the direction to furnish the reasons for the order or, as the case may be, the direction and such authority, office or person shall, furnish the reasons to such person.”

“pari materia”

The statutes are in *pari material* which relate to the same person or thing or to same class of persons or things. It is a phrase applicable to the statutes or general laws made at different times in reference to the same subject.

JUDGMENTS

1. Muhammad Daiem Shattari Versus State.

2007 YLR 2038(b)

Mrs. Yasmin Abbasey, J

- S.24-A---Administration of justice---When any Authority or Officer was empowered to make an order or give directions, such power was required to be exercised reasonably, fairly, justly and for advancement of the purpose of enactment and assigning reason for making such order.

2. Federation of Pakistan

Versus

Tahir Latif.

2007 SCMR 152 (c)

Mian Shakirullah Jan and Ch. Ijaz Ahmed, JJ

**S.24-A---Administrative order---Scope---
Under S.24-A, General Clauses Act,
1897, it is the duty and obligation of
competent authority to award minor
punishment after application of mind with
reasons. Messrs Airport Support
Services's case 1998 SCMR 2268 rel.**

3. Capital Development Authority

Versus

Shaheen Farooq

2007 SCMR 1328(a)

Javed Iqbal, Actg. C.J. Abdul Hameed Dogar and Mian Shakirullah Jan, JJ

- **S.24-A---Capital Development Authority Ordinance (XXIII of 1960), S.51---Capital Development Authority Conduct of Business Regulation, 1985, Sched. II---Verbal order of Chairman of the Authority cancelling allotment of plot---Validity---Only Chairman had powers to allot and cancel plots, who could not delegate such powers to other officer of the Authority---All orders passed and acts performed by State/public functionaries adversely affecting anyone must be in writing---Verbal order of Chairman would have no sanctity in law for its being alien to process of law and courts. C.D.A. v. Zahid Iqbal PLD 2004 SC 99 rel.**

4. Ashiq Ali Versus Govt. of Punjab.
PLJ 2007 Lahore 1056(ii)
Cy. Ijaz Ahmed, J.

S.24-A---Constitution of Pakistan, (1973),
Art. 4---Public functionaries---Duty of---It is
the duty and obligation of public functionaries
to decide the representation of their
subordinates without fear, favour, nepotism,
with reasons and within reasonable time as
is envisaged by Art. 4 of Constitution read
with S.24-A of General Clauses Act.

5. Mushahid Ali

Versus Bahauddin Zakariya University

2007 MLD 1898

Muhammad Jehangir Arshad, J

- S. 24-A---Constitution of Pakistan (1973), Art.199---
Constitutional petition---Duty of public functionary---
Contention of petitioner was that as appeal filed
against impugned order had not been decided by
the Vice-Chancellor of the University, petitioner was
compelled to file constitutional petition---Since it was
the duty of every public functionary to
decide/dispose of representation/appeal etc. within a
reasonable time; and after application of
independent mind by giving reasons, in terms of S.
24-A of General Clauses Act, 1897, constitutional
petition was disposed of by the High Court with the
direction to the Vice-Chancellor to dispose of appeal
of petitioner within one week.

Rahmat Hussain Jafferi and Muhammad Afzal Soomro, JJ

- S. 24-A---Criminal Procedure Code (V of 1898), S. 173---Closing of case---Trial Court, after giving details of the case and opinion of Investigating Officer, had observed that the court was satisfied that report of police for closure of the case under S.173, Cr.P.C., being justified, needed to be accepted---No reason whatsoever had been assigned by the court to agree with the report of the police---Court was obliged to have examined report of police and evidence on record and give some reasons concurring with the view taken by Investigating Officer---Under provisions of S. 24-A of General Clauses Act, 1897, every Authority or officer was required to assign reasons for passing an order when a statute authorized him to pass any order or issue any direction---Order thus suffered from material illegality by not complying with provisions of S. 24-A, of General Clauses Act, 1897, the same was set aside and matter was remanded to the Trial Court for examining the statements of witnesses and record and pass appropriate order as deemed fit---Petition was allowed to that extent.

**7. Collector, Collectorate of Customs (Preventive), Karachi
Versus
Abdul Salam Khan
2007 PTD 2500
Anwar Zaheer Jamali and Gulzar Ahmed, JJ**

- S. 24-A---Customs Act (IV of 1969), S.196---Appeal to High Court---Order of the Member, Technical of the Appellate Tribunal, showed that he had not gone through the earlier orders passed by the lower forums and other material available on record, which was explicitly referred to and discussed therein---Mere fact that the respondents had failed to appear in response to the notice, Member Technical of the Appellate Tribunal was not supposed to decide the case against them without recording any valid reasons and without application of mind---Impugned order passed by the Tribunal being violative of provisions of S. 24-A of General Clauses Act, 1897, was set aside, with direction to the Tribunal to decide the same afresh.

8. I.T.A No. 934/IB of 2006

2007 PTD (Trib) 1325(c)]

[Khawaja Farooq Saeed. Chairperson and Istataat Ali, Accountant Member)

- S. 24-A---Income Tax Ordinance (XLIX of 2001)-
--Preamble---Exercise of power under enactments---Provisions of law contained in S.24A of the General Clauses Act, 1897 was of binding nature and Income Tax Officer as well as all others in the hierarchy of the tax administration were bound to be fair, just, reasonable and to work for the advancement of the purpose of enactment.

9. Muhammad Din Versus Jamal Din

2007 SCMR 1091 (c)

Sarder Muhammad Raza Khan and Ch. Ijaz Ahmed, JJ

- S. 24-A---Judicial application of mind--- public functionaries are duty bound to decide applications of citizens after judicial application of mind with reasons. Messrs Airport Support Services v. The Airport Manager, Quaid-e-Azam International Airport, Karachi and others 1998 SCMR 2268 rel.

**10. Muhammad Zarat Khan Versus Federation of Pakistan
PLD 2007 Kar. 597(c)]**

Muhammad Afzal Soomro and Rahmat Hussain Jafferri, JJ

- S. 24-A---Public functionaries---Speaking order--
-Scope---Mandatory and compulsory upon
officer to give reasons as mandated by S.24-A
of General Clauses Act, 1897, under which
every authority and officer, who is empowered to
pass any order or issue any direction, is required
to give reasons for passing such order or issuing
such direction.

11. Wajid Saeed Khan

Versus

Abdul Qadoos Khan Swati

2007 SCMR 1759(d)=2007CLD 1239 (d)

Sardar Muhammad Raza Khan, Ch. Ijaz Ahmed and Hamid Ali Mirza JJ

- **S.24-A---Public functionaries are duty bound to decide applications of citizens after judicial application of mind. Airport Support Services v. The Airport Manger 1998 SCMR 2268 rel.**

**12. Misbah Tabassum Versus Government of Punjab
2007 P CR. L J 1776 (b)
Muhammad Jehangir Arshad, J**

- S.24-A--- West Pakistan Maintenance of Public Order Ordinance (XXXI of 1960), S. 3---Constitution of Pakistan (1973), Arts.9, 10 15,16, 17 & 199--- Constitutional petition--- Detention orders---Involvement of petitioners in anti-social and anti-Government activities---Cyclostyle recommendations of Superintendent of police for passing such orders without referring to any material or evidence collected by Agency---Validity---such activities were neither an offence nor could be equated with action against interest of the State---Such recommendations and impugned orders did not show petitioners' involvement in an activity detrimental to sovereignty or integrity of Pakistan, public order or morality---Detaining Authority before passing detention order had to satisfy itself about activities of a person prejudicial to public safety or maintenance of public order---

- Impugned orders had been passed without application of mind about alleged activities by any of petitioners---Provincial Home Secretary, without giving reasons had sent most of the petitioners to jails situated at a distance of 300 Kilometers from their residences---Such act of Home Secretary was most inhuman and cruel showing his intention to punish petitioners for their alleged activities---High Court for such act of Home Secretary had ordered him to pay from his pocket Rs.20,000/- to each petitioner , but recalled such order at the request of Law Officer giving assurance on his behalf not to act in future in such an inhuman manner---

- Impugned order violated Art 9,10, 15, 16 and 17 of the Constitution---High Court declared impugned order as without lawful authority and directed forthwith release of petitioners. 2006 SCMR 496=2006 PLC (C.S) 355; *Mie Abdul Baqi Baluch v. The Government of Pakistan through the Cabinet Secretary Rawalpindi* PLD 1968 SC 3013 and *A. K. Khalid P.C.S. Section Officer, Ministry of Interior Governmental Pakistan, Rawalpindi v. Khan Ghulam Qadir Khan* PLD 1962 (W.P.) Lah. 411 rel.

**13. Petrosin Corporation (Pvt.) Ltd.
Versus
Oil and Gas Development company Ltd.
2007 CLD 578 (f)
Abdul Shakoor Paracha, J**

- Tender Notice floated by Oil and Gas Development Company---Letter of Intent issued by company after submission of performance guarantee bond by lowest bidder---Readiness of bidder to sign contract----Return of performance guarantee bond to bidder and re-advertising of tender by company without any reason and without giving opportunity of hearing to bidder---Validity---Neither statute conferred any power upon company to enter into a contract with bidder nor concluded contract between functionary of State/OGDC had been reached---Section 24-A of General Clauses Act. 1897, thus, would not attract to such case---Principles.