

Form No: HCJD/C-121

ORDER SHEET
IN THE LAHORE HIGH COURT
LAHORE.
JUDICIAL DEPARTMENT

W.P.No.82603/2022

Chaudhary Parvez Elahi Vs. Governor Punjab etc.

S. No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge, and that of parties or counsel, where necessary.
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12.01.2023	<p>M/s Barrister Syed Ali Zafar, Zahid Nawaz Cheema, Advocate, Barrister Ahmad Asfand Yar Waheed, Ms. Fareeha Arif Advocate, Ms. Asna Ahsan Advocate, Ms. Sara Majeed, Advocate, Abdullah Arif, Advocate, Barrister Asfandiyar Lodhi and Sikandar Sultan Chaudhry, Advocate for the petitioner.</p> <p>M/s Amir Saeed Rawn, Imdad Hussain Chandio, Adam Saeed Rawn, Advocates for the petitioner.</p> <p>M/s Ch. Adnan Faiz Kalaar, Advocate, Ch. Rizwan Kashif Kalaar, Advocate for the petitioner.</p> <p>Ms. Shamim Akhtar, Advocate.</p> <p>Mr. Sheikh Zaheer Ahmad, Advocate for the petitioner.</p> <p>M/s Ashhad Ali Azhar, Advocate, Dr. Ali Qazil Bash, Advocate, Ahmad Imran Ghazi, Advocate, Munir Ahmad, Advocate, Mian Shabir Asmail, Advocate, Ms. Salma Riaz, Advocate, Ms. Amna Liaqat, Advocate and Barrister Nudra B Majeed for the petitioner.</p> <p>Mr. Saqib Haroon Chishti, Advocate for the petitioner.</p> <p>Mr. Adnan Ramay, Advocate for the petitioner.</p> <p>Mr. Yasir Islam Chaudhary, Advocate for the petitioner.</p> <p>Hafiz Arslan Gujjar, Advocate for the petitioner.</p> <p>M/s Mansoor Usman Awan, Khalid Ishaq, Ch. M. Jawad Yaqub, Barrister Hamza Shehram Sarwar, Haris Irfan, Faizan Ahmad, Ahmad Saeed, Abid Sial, Usman Nasir Awan, M. Zikria Sheikh, Khalil Tahir Sindhu, Mian Shahzaib Quddous, Asad Zaman Tarar, Kamal Ali Khan, Advocates for respondent No.1.</p> <p>M/s Mirza Nasar Ahmad, Addl. Attorney General, Muhammad Javed Awan, Addl. Attorney General, Syed Tanvir Ahmad Hashmi, Dy. Attorney General, Ch. Badar Munir Malik, Dy. Attorney General, Tahir Mehmood</p>
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Khokhar, Dy. AG, Ahmad Raza Chattha, AAG-Pk, Mr. M. Mansoor Ali Sial, AAG-PK, M. Hassam Kayani, AAG-PK and Mr. Usman Ghani, AAG-PK for Federation of Pakistan.

M/s Ahmad Awais, Advocate General Punjab, Javed Awan, Addl. A.G-I, Tipu Salman, Addl. A.G., Zafar Zulqarnain Sahi, Addl. A.G., Hamid Shabir Azar, Addl. A.G, S.N. Khawar Khan, Addl. A.G., Fayyaz Ahmad Mehr, Addl. A.G, Mukhtar Ahmad Ranjha, Addl. A.G, Mr. Saqib Akram Gondal, Addl. AG, Muhammad Barjees Tahir, AAG, Sardar Aqeel Ahmad Bhatti, AAG, Rai Shahid Saleem Khan, AAG, Muhammad Akbar Baba, AAG, Irfan Kalaar, AAG, Ch. Shahid Mahmood, AAG, Ch. Usman Ghani, AAG, Ch. Naseer Ahmad Gujjar, AAG, Ch. Muhammad Zain Qazi, AAG, Muhammad Anwar Khan, AAG, Mian Mian Swad Hanif, AAG Punjab. Hanif, AAG, Ch. Muhammad Jehanzaib, AAG, Safdar Hayat Bosal, AAG, Mustafa Shaukat Imran Pasha, AAG, Kashif Bashir, AAG, Awais Ahsan Joyia, AAG, Rana Zain Tahir, AAG, Ch. Attique Zaman Wains, AAG, Barrister Tayeeb Jan, AAG, Barrister Shahayar Riaz, AAG and Zakarya Yousaf Toor, AAG, for respondent No.2.

Mr. Bilal Awais and Ms. Sidra Kanwal, Advocates.

M/s. Haider Rasul Mirza and Syed Atir Raza Abdi, Advocates for the respondent No.3.

Through this constitutional petition, the petitioner has challenged the orders dated 19.12.2022 and 22.12.2022 (**impugned orders**) passed by respondent No.1 (**Governor Punjab**), whereby while exercising powers under Article 130(7) of the Constitution of Islamic Republic of Pakistan, 1973 (**Constitution**), Session of Provincial Assembly was summoned and petitioner was required to take vote of confidence, however, the former order was not effectuated in view of the Ruling Order

passed by respondent No.3 (**Speaker**) on 20.12.2022. Eventually, vide impugned order dated 22.12.2022, while exercising the powers under Article 130(7) of the Constitution read with Rule 22(7) of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997 (**Rules**), it was held that petitioner has ceased to hold the office of the Chief Minister and the Cabinet was also dissolved, however, the petitioner was allowed to continue to perform functions under Article 133 of the Constitution, till the next Chief Minister takes the charge of the office. This Court in this petition, vide order dated 23.12.2022, recorded the contentions of the petitioner and issued notices to the respondents. As an interim relief, the impugned orders were also held in abeyance. The relevant Para of the said order is reproduced hereunder:

“In view of above submissions and undertaking given by the petitioner, the operation of impugned orders dated 19.12.2022 and 22.12.2022 shall be held in abeyance till the next date of hearing, however, this order will not preclude the petitioner from taking vote of confidence on his own accord.”

2. The writ petition was being argued by learned counsel for the petitioner, when during the pendency of this Writ Petition, on 12.01.2023, the petitioner obtained vote of confidence in terms of the Article 130(7) of the

constitution from the Provincial Assembly in its sitting held on 12.01.2023. In pursuance thereto, the Notification has been issued by the Speaker on 12.01.2023 and same has also been communicated to the Governor Punjab on the same date.

3. Learned counsel for the respondent No.1 (Mr. Mansoor Usman Awan, Advocate) in view of above developments made following statement in Court:-

“The Governor has received the report from the Speaker dated 12.01.2023 confirming that Chief Minister has obtained vote of confidence in terms of Clause (7) of the Article 130 of the Constitution while complying with the order dated 19.12.2022 of the Governor. As consequence of compliance, the Governor has withdrawn the order dated 22.12.2022.”

4. In view of the statement made by the learned counsel for the respondent No.1, it is evident that impugned order dated 19.12.2022 stood complied with by the petitioner and the Governor Punjab affirmed his pleasure, who is not proceeding against the petitioner under Article 130(7) of the Constitution and whereas the other impugned order dated 22.12.2022, being the consequence of allegedly not taking vote of confidence in terms of order dated 19.12.2022, is also withdrawn in view of above statement, when petitioner had taken vote of

confidence on 12.01.2023 successfully, passing the floor test, which is required under Article 130(7) of the Constitution.

5. In view of above, we do not need to adjudicate upon the justiciability of the reasons/grounds stated in order dated 19.12.2022 of the Governor Punjab for reaching satisfaction in terms of Article 130(7) of the Constitution and merits of the order of the Speaker of the Assembly in the context of the ratio settled in the case of “Pir Sabir Shah Versus Federation of Pakistan and others” (PLD 1994 SC 738), which questions are left open for determination in any other case. Furthermore, in the light of the statement of the Governor Punjab, this petition has borne fruit, consequently the Notification dated 22.12.2022 issued by the Chief Secretary Punjab is set-aside. **This petition is disposed of** accordingly.

(ABID AZIZ SHEIKH)
JUDGE

(TARIQ SALEEM SHEIKH) (CH. MUHAMMAD IQBAL)
JUDGE JUDGE

(ASIM HAFEEZ) (MUZAMIL AKHTAR SHABIR)
JUDGE JUDGE