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IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Present:

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ.
Mr. Justice Jawwad S. Khawaja
Mr. Justice Anwar Zaheer Jamali

Criminal Misc. Application No.765/2012

(Notice in the matter of derogatory language used by
Altaf Hussain, Leader of Muttahida Qaumi Movement
against the Judges of this Court)

And

Suo Moto Case No.16 of 2011

(Law & Order Situation in Karachi)

And

Criminal Original Petition NO.96/2012

Senator Haji Adeel	Vs. Raja Muhammad Abbas and others
For the petitioner:	Mr. Muhammad Zahoor Qureshi, AOR (in CrI.O.P. NO.96/2012)
On Court Notice:	Mr. Qasim Mirjatt, Addl. A.G. Sindh Mr. Zafar Ahmad Khan, Ad P.G. Sindh
Respondents:	N.R.
Date of hearing:	14.12.2012

ORDER

Office of the Registrar of this Court has drawn attention towards the substance of speech delivered by Altaf Hussain, leader of Muttahid Qaumi Movement (MQM) on 02.12.2012 addressing a large number of people wherein uncalled for expressions and aspersions were used against the Hon'ble Judges of Supreme Court of Pakistan.

2. In the wake of situation of law & order prevailing in Karachi, this Court in the judgment dated 13.9.2011 passed in the case of Watan Party v. Federation of Pakistan (PLD 2011 SC 997), on having examined in depth the facts and circumstances, on account of which lives and properties of the citizens of Karachi are not secured, issued directions including the one, which is reproduced herein below:-

"Further observe that to avoid political polarization and to break the cycle of ethnic strife and turf war, boundaries Of administrative units like police stations, revenue estates, etc., ought to be altered so that the members of different communities may live together in peace and harmony, instead of allowing various groups to claim that particular areas belong to them and declaring certain areas as NO GO Areas under their fearful influence. Subsequent thereto, on similar considerations, in view of relevant laws, delimitation of different constituencies has also to be undertaken with the same object and purpose, particularly to make Karachi, which is the hub of economic and commercial activities and also the face of Pakistan, a peaceful city in the near future. The Election Commission of Pakistan may also initiate the process on its own in this behalf."

It is to be noted that above judgment was conceded to as no review petition was filed against any of the directions contained therein. In the said judgment a mechanism was introduced but subsequent thereto it was noticed that *inter alia* above directions were not being implemented despite lapse of considerable period, therefore, on different occasions, the case was heard to implement the judgment. On 28.11.2012 a Bench of this Court issued direction to Election Commission for taking in hand the process of delimitation of the constituencies in Karachi city. Relevant para from the judgment is reproduced herein below:-

"In response to our earlier order dated 26.11.2012, Mr. Ishtiak Ahmed Khan, Secretary, Election Commission of Pakistan is present. When confronted with the observations of this Court regarding delimitation of different constituencies at

Karachi, in line with the observations in the judgment in the case of Wattan Party (PLD 2011 S.C.997) at page 1131, and the stance earlier taken by the Election Commission of Pakistan through its director General (elections) Syed Sher Afgan, he candidly conceded that neither the Article 51(5) of the constitution of the Islamic Republic of Pakistan 1973 nor section 7(2) of the Delimitation of Constituencies Act 1974 are hurdle in the compliance of such observations. He assured that now the task of delimitation of different constituencies in Karachi has been taken up by the election Commission of Pakistan with the Government of Sindh, and, for this purpose, from today onward, he is going to hold three meetings with the concerned officials of the Government of Sindh, particularly, the Chief Secretary, Government of Sindh to make substantial progress in this regard. He further assured that compliance of observations regarding delimitation of constituencies will be done/completed in its letter and spirit within the shortest possible time, after following due procedure and taking on board all the stakeholders, and such comprehensive report will be submitted for the perusal of this Court. The Chief Secretary, Government of Sindh, who is also present in Court, has assured fullest cooperation to the election Commission of Pakistan for this purpose.....

3. Needless to observe that there was no object of the above order except to implement the judgment of this Court dated 13.9.2011 in letter and spirit but it seems that after passing above order Altaf Hussain leader of MQM delivered a speech addressing to the general public/citizens of Karachi on telephone by availing facility of uplinking, normally provided by PTA, wherein uncalled for remarks and the demands were put forward. The script of the speech has been obtained from PEMRA, a perusal of the same suggests that the derogatory remarks made by him are critical and also contemptuous in nature. Extract from the speech is reproduced herein below:-

۱۔ دشمن عناصر عدالتوں کے بعض ججز کو ایم کیو ایم کو فنا کرنے کے لیے بعض ججز کو استعمال کر رہے ہیں۔ افسوس کے ساتھ سپریم کورٹ کے ججز بھی ایم کیو ایم کو فنا اور ایم کیو ایم کا نام و نشان مٹانے کے عمل میں شریک ہیں۔

۲۔ میں انہیں بتانا چاہتا ہوں کہ یہ بیان ریکارڈ پر ہے، چیف آف آرمی سٹاف حافظ نواز جنجوعہ کا ریکارڈ پر بیان موجود ہے، 19 جون 1992ء کے بعد کے اخبارات اٹھا کر دیکھ لیجئے۔ الطاف حسین کا چیپٹر کلوز ہو گیا ہے۔ الطاف حسین کا Chapter اللہ نے کھولا تھا۔ وہی Close کرے گا، تو انسان زمین پروردی پہن کر خدا کا روپ دھارنے والا تو تیرا نام و نشان مٹ گیا، الطاف حسین اب بھی زندہ ہے۔

۳۔ یہ جو فیصلہ جو ریمارکس سپریم کورٹ کی اس اسپیشل خصوصی بینچ نے، کراچی بد امنی کیس کے سلسلہ میں فیصلہ دیتے ہوئے جس جج نے یہ ریمارکس اپنے دیگر ججز کی موجودگی میں کہے کہ کراچی میں بد امنی کے خاتمے کے لئے لاء اینڈ آرڈر کو اچھا بنانے کے لئے نئی حد بندیاں کی جائیں کہ کسی ایک جماعت کی اجارہ داری نہ رہے۔

۴۔ جس جج نے اور جس بینچ نے یہ فیصلہ دیا ہے، اگر وہ کروڑوں عوام کی نمائندہ جماعت ایم کیو ایم کے خلاف دیئے گئے اس ریمارکس پر معافی نہیں مانگے گی تو میں بتاتا ہوں کہ ان کا نام و نشان مٹ جائے گا انشاء اللہ۔ انہیں ابتری کا سامنا کرنا ہو گا۔

۵۔ جہاں تمام ملک کے شہروں سے زیادہ پڑھے لکھے لوگوں کا حصہ ہے تو فاضل جج کے یہ ریمارکس دو کروڑ سے زائد عوام کی توہین ہے، ان کے لئے گالی ہے، فاضل جج عوام سے معافی مانگو ورنہ خلق خدا کو ختم کرنے کا جو خواب تمہارا منصب پر بیٹھ کر عدالت کی کرسی پر بیٹھ کر۔ وہی عدالت عظمیٰ کے جو خواب دیکھ رہے ہو، اور پوری بینچ سن رہی ہے، تو یاد رکھو، ایم کیو ایم کو ہر نام و نشان مٹانے والوں کا نام و نشان نہیں رہا، ان کا نام لینے والا کوئی نہیں، آج نصیر اللہ بابر کو کتنے لوگ یاد کرتے ہیں۔

۶۔ تو خصوصی بینچ کے فاضل جج کے یہ ریمارکس، خصوصی بینچ کے دیگر ججوں کے سامنے بٹھادیے، ووٹرز، خواتین، ماؤں، بہنوں، بزرگوں، نوجوانوں، حتیٰ کہ معصوموں کی جانب سے اپنے جو حق رائے دہی اڈلٹ فریچائز کا حق آئین قانون کے تحت ہر جمہوری سمت میں دیا جا رہا ہے اس کا حق استعمال کرنے کے خلاف کھلی سیازش ہے۔

۷۔ اور یہ فاضل جج کہہ رہے ہیں کہ اجارہ داری قائم نہ ہو، اے فاضل جج اپنے الفاظ واپس لو، معافی مانگو، ورنہ جلد قہر خداوندی تم پر نازل ہو گا، اور یاد رکھو، تمہارا نام جب بھی آئے گا جس طرح حسین کا احترام سے نام

لیتے ہیں اور یزید کا نام سنتے ہی لا حول پڑھتے ہیں، تو یاد رکھو، اسے فاضل بنج اور بیٹج کے دیگر ججز، اگر آپ نے معافی نہ مانگی تو یاد رکھیے، آپ کا نام و نشان نہ رہے گا بلکہ جب بھی آپ کا نام آئے گا، وہ یزیدیت کے ساتھ آئے گا۔

۸۔ تو بھائی سپریم کورٹ کے چیف جسٹس صاحب افتخار احمد چوہدری صاحب۔۔۔۔۔ آپ کی سپریم کورٹ کے ججز نے انتہائی غلیظ رویہ رکھ کر عدالت عظمیٰ کے وقار کو مجروح کیا ہے۔

۹۔ میں ایم کیو ایم کے خلاف متعصب ججز کو بتا دینا چاہتا ہوں کہ ملک کے غیور اور جمہوریت پسند عوام کسی کو اپنے جمہوری حق پر ڈاکہ ڈالنے کی اجازت نہیں دیں گے، فاضل بنج کے یہ رویہ رکھ کر امتیازی، جی نہیں، تعصب، بدینتی آئین قانون کے خلاف ہیں۔ بیٹج کے ججز، اس مخصوص بیٹج کے ججز جو ہیں، اس میں جو فاضل بنج نے رویہ رکھ کر دیئے وہ آئین کے سیکشن 25 کی صریحاً خلاف ورزی ہے۔

۱۰۔ اب یہ حلف کی غداری نہیں ہو رہی چیف جسٹس صاحب! قانونی اور آئینی حلف کی غداری نہیں ہو رہی، ۱۱۔ اس بیٹج کے جو فاضل بنج جس نے یہ رویہ رکھ کر متعصبانہ دیئے ہیں سپریم کورٹ کے اس بیٹج کے بارے میں کہتا ہوں کہ ایسے متعصب ججز جب تک عدالت میں کرسیوں پر بیٹھے رہیں گے۔ نہ ملک کا عدالت کا نظام ٹھیک ہو گا نہ ملک کا لائینڈ آرڈر کا کبھی درست ہو گا۔ لائینڈ آرڈر صحیح کرنے کے لیے ضروری ہے کہ ایسے متعصب ججز کو فارغ کیا جائے۔

۱۲۔ عدالتیں آج عدالتیں اور عدالتوں کے بینچز بد قسمتی سے آج ہمارے ملک میں مزاق بن چکی ہیں

4. The office note was directed to be put up in Court because on having gone through the above material it was considered appropriate to examine the same on judicial side.

5. *Prima facie*, contents of the speech of Altaf Hussain, reproduced above, tantamount to interference with and obstruction of the process of the Court by advancing threats to the Hon'ble Judges of Supreme Court and it also tends to bring the Judges into hatred, ridicule and contempt. On account of such assertions, the process of the Court is also likely to be prejudiced, relating to implementation of the issues arising out of the directions of this Court in Watan Party's case and subsequent orders dated 1.11.2012, 26.11.2012, 28.11.2012 etc. passed for

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the implementation of the directions issued in reported judgment, referred to hereinabove.

Criminal Original Petition No.96 of 2012:

6. This petition has been filed by Senator Haji Adeel, under section 5 of the Contempt of Court Ordinance, 2003 read with Article 204 of the Constitution, wherein after having relied upon the directions made by this Court in the judgment, noted hereinabove, *inter alia* it has been mentioned that in Karachi lives and properties of the people have not been protected and no respite in loss of human life since been witnessed even after more than a year. It was further stated that the Administration headed by Chief Secretary has failed to improve the situation and thus the directions of this Court have been willfully ignored rather violated. With regard to observation of this Court to avoid political polarization and to break the cycle of ethnic strife and turf war, boundaries of administrative units, like police stations, revenue estates etc. are to be altered so that members of different communities may live together in peace and harmony, and to delimitation of different constituencies to make Karachi as a peaceful city, it was mentioned that the respondents have done nothing and the said observations have been violated flagrantly. The respondents have not moved an inch with respect to the directions regarding arms and ammunition of prohibited and non-prohibited bores. No appropriate legislation has been made with regard to land grabbing, which amounts to contempt of court. It was also mentioned that the directions with regard to compensation to those who lost their lives and properties, deputing of independent and de-politicised investigating agency, creation of special joint cell by NADRA and IGP, and collection of record in respect of police officials and witnesses etc. who have

been killed, have not been complied with. In the petition following prayer has been made:-

"It is therefore prayed that the respondents be proceeded against under section 5 of the Contempt of the Court Act R/W Article 204 of the Constitution of Islamic Republic of Pakistan and they may be tried for contempt of court and punished accordingly."

7. In the light of above, notices under Article 204 of the Constitution of Pakistan read with section 3 of the Contempt of Court Ordinance, 2003 be issued to Altaf Husain to appear in person and explain as to why he should not be proceeded against for Contempt of Court in accordance with the Constitution and the law. Notice be issued to him through Secretary, Ministry of Foreign Affairs, Government of Pakistan as he was made above assertions during a telephonic address from outside the country. The Secretary will ascertain his correct location and shall ensure service upon him, through representatives of the Foreign Office outside the country. Similarly, a notice be also issued to him c/o Dr. Farooq Sattar, Deputy Convener, MQM, 494/8, Azizabad, Karachi.

8. Likewise, notices under Article 204 of the Constitution of Pakistan read with section 3 of the Contempt of Court Ordinance, 2003 be issued to the respondents in Criminal Original Petition No.96/2012 to appear and explain as to why they should not be proceeded against for Contempt of Court in accordance with the Constitution and the law, for having been failed to implement the judgment in Watan Party's case.

9. The Advocate General of the Province of Sindh is also directed to submit comprehensive compliance report in respect of the directions contained in Watan Party's case and the orders passed thereafter by a Bench seeking implementation of the judgment. And if the judgment is not implemented in letter &

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spirit, he should pinpoint the person(s) individually and collectively responsible for the same. In the meanwhile the Provincial Government through its Chief Secretary should also furnish a statement as to why the killing in Karachi has again increased and what measures have been taken to ensure the safety and protection of the life and property of the citizens in Karachi. Detail of citizens, who were killed from 13.09.2011 to date, be also furnished.

Adjourned to 07.01.2013.

Sd/- Ghikhar Muhammad Chaudhry, M.

Sd/- Jawwad S. Khawaja, J

Sd/- Anwar Zaheer Jamali, J

Islamabad, the
14th December, 2012
Nisar/*