

IN THE SUPREME COURT OF PAKISTAN
(ORIGINAL JURISDICTION)

PRESENT:

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, CJ.
MR. JUSTICE EJAZ AFZAL KHAN.
MR. JUSTICE IJAZ AHMED CHAUDHRY.
MR. JUSTICE GULZAR AHMED.
MR. JUSTICE SH. AZMAT SAEED.

CONSTITUTION PETITION NO. 19 OF 2013.

(Regarding unprecedented security Protocol to former
Prime Ministers, Chief Ministers, Speakers, Deputy
Speakers, Ministers, Member Parliament, etc).

On Court Notice : Mr. Zafar Mehmood Mughal, DAG.

For Govt. of Sindh: Mr. Abdul Fattah Malik, A.G. Sindh
Mr. Khalid Javed Khan, ASC.
Malik Israr, Acting Chief Secy.
Mr. M. Waseem, Addl. C.S. (Home).
Mr. Imran Atta Soomor, Addl. Secy. (Home)

For M/o Interior : Nemo.

For M/o Law : Nemo.

For A. Rehman Malik: Raja Abdul Ghafoor, AOR.

For AGPR : Asif Usman Khan,
Controller General Accounts
Mr. Tahir Mehmood,
Accountant General Pakistan Revenue.

For Raja Pervez Ashraf &
Syed Qaim Ali Shah : Nemo.

Date of hearing: 17.04.2013.

ORDER

Raja Abdul Ghafoor, learned AOR appeared on behalf of
former Interior Minister (Mr. A. Rehman Malik) and stated that in

CMA No. 2107 of 2013 he has placed on record statement dated 14.03.2013 signed by the former Minister, contents of the same are reproduced herein below :-

"My staff has put up a copy of notification No. F.1/13/2013- SECURITY-I, dated 14 March 2013 for my perusal and information which has been issued without my approval. It is, therefore, directed that the said Notification may pleased be cancelled/withdrawn with immediate effect.

Sd/-
A. Rehman Malik,
Minister.
14.03.2013."

However, he stated that Mr. A. Rehman Malik is apprehending threat to his life, therefore, he needs security. It is to be noted that under Article 9 of the Constitution, it is the responsibility of the State to protect/secure the life and property of all the citizens without any discrimination but in the instant case, Notification dated 14.03.2013 does not suggests any apprehension about the security concern of A. Rehman Malik was noted therein. Contents of the notification are reproduced herein below:-

"GOVERNMENT OF PAKISTAN
MINISTRY OF INTERIOR

Islamabad, the 14th March, 2013.

NOTIFICATION

The following facilities are hereby extended to the former Federal Ministers for Interior who held the office at any period of time excluding caretaker Federal Ministers and those who held office during the period when the constitution stood suspended/abrogated with immediate effect :-

- i) Protocol coverage be provided by FIA to former Federal Ministers for Interior and their spouses/children at all Airports of the country.
- ii) Services of PSO/APS/PA for life time, to be appointed by NADRA.
- iii) Services of Driver for life time, to be appointed by NADRA.
- iv) Services of Orderly for life time, to be appointed by NADRA.

Sd/-

(Shahadat Ali Bangash)
Section Officer (Security-I)"

We fail to understand that under which authority of the Constitution or the law, the above notification relating to the providing of protocol cover and services of PSO, Driver, Orderly for life time has been issued. In Addition thereto, there is no provision under the NADRA Ordinance, 2000, whether the NADRA can be charged with any function to provide services of PSO, APS etc. Similarly, in terms of the Federal Investigation Act, 1974, it is beyond the scope of the functions/duties specified for officers/officials/functionaries of the FIA under it to provide protocol cover to the former Federal Interior Ministers and their spouses, children at all the Airports of the country. Notice was issued to the learned Attorney General for Pakistan, however, Mr. Zafar Mehmood Mughal, Deputy Attorney General is present but has no instructions. He has stated that the learned Attorney General can highlight the view point of the Federal Government. As prima-facie the notification referred to hereinabove has been issued

without any lawful authority, therefore, its operation is suspended forthwith and the Secretary Interior is directed to appear in person on 18.04.2013 along with the record on the basis of which the summary was flouted/initiated for issuance of this notification and the person who is responsible for the same should also be directed to appear personally and explain his position.

2. M/s Asif Usman and Tahir Mehmood appeared on behalf of Controller General Accounts and AGPR. They explained that the accounts functions are not of the Auditor General of Pakistan but of the Controller General Accounts and they have prepared a joint report as was required i.e. to calculate annual expenditure if the facilities which had been demanded by Raja Pervez Ashraf, Former Prime Minister. According to them, an expenditure of Rs.272,515,656/- has been calculated approximately, which is to be charged from the public exchequer annually. The learned Attorney General for Pakistan is not in attendance and is reported to be busy before another Bench of this Court, therefore, further hearing of this case is adjourned for **tomorrow i.e. 18.04.2013.**

3. Learned Advocate General Sindh has filed a concise statement (CMA. No.2102 of 2013). Mr. Khalid Javed Khan, learned counsel stated that he has been engaged by the Government of Sindh in this case, therefore, he needs some time to prepare the brief to satisfy this Court about the constitutionality of the laws on the basis of

which the perks and privileges for the Chief Minister, Speaker, Deputy Speaker, etc., have been increased.

Chief Justice
Judge(10) *Ijaz Ahmed Chisti*
Judge(11)
Judge(12) *Azmat Seel*
Judge(14)

Islamabad.
17.04.2013.
*MAZ**