

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT
Mr. Justice Sh. Riaz Ahmed
Mr. Justice Munir A. Sheikh
Mr. Justice Nazim Hussain Siddiqui
Mr. Justice Iftikhar Muhammad Chaudhry
Mr. Justice Qazi Muhammad Farooq

CONSTITUTION PETITION NO. 38 OF 2002, 2, 3, 4, 7, 8, 11, 12, 13, 14, 18, 19, 20, 23 & 24 OF 2003

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| Const.P.38/2002 | Javed Jabbar Vs. Federation of Pakistan & another | Mr. M.A. Siddiqui, ASC Mr. M.A. Zaidi, AOR |
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| Const.P.2/2003 | Rana Tanveer Husain Vs. Federation of Pakistan & others | Syed Hamid Ali Shah, ASC |
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| Const.P.3/2003 | Malik Umar Aslam Vs. Federation of Pakistan & another | Syed Hamid Ali Shah, ASC |
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| Const.P.4/2003 | Asfnad Yar Wali Khan Vs. Federation of Pakistan & others | Qazi Muhammad Anwar, Sr.ASC Mr. Ejaz Muhammad Khan, AOR |
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| Const.P.7/2003 | Mian Abdul Waheed Vs. Federation of Pakistan & others | Sardar Liaquat Ali, ASC Mr. Anwar H. Mir, AOR |
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| Const.P.8/2003 | Mst. Mushtari Begum Vs. Federation of Pakistan & others | Raja M. Ibrahim Satti, ASC Mr. Ejaz Muhammad Khan, AOR |
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| Const.P.11/2003 | Muhammad Ajmal Khan Vs. Federation of Pakistan & others | Mr. S.M. Abdul Wahab, ASC Mr. M.A. Zaidi, AOR |
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| Const.P.12/2003 | Muhammad Ehsanullah, Advocate Vs. Federation of Pakistan & others | In Person |
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| Const.P.13/2003 | Muhammad Ayub Vs. Federation of Pakistan & others | Mr. Muhammad Asif, ASC |
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| Const.P.14/2003 | Syed Amjad Hussain Shah Vs. Federation of Pakistan & others | Mr. M. Bilal, Sr. ASC Mr. A.A. Siddiqui, AOR |
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| Const.P.18/2003 | Rashid Ahmed Vs. Federation of Pakistan & others | Raja M. Ibrahim Satti, ASC Mr. Ejaz Muhammad Khan, AOR |
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| Const.P.19/2003 | Shoukat Ullah Vs. Federation of Pakistan & others | Raja M. Ibrahim Satti, ASC Mr. Ejaz Muhammad Khan, AOR |
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| Const.P.20/2003 | Muhammad Saleh Shah Vs. Federation of Pakistan & others | Syed Zulifqar Abbas Naqvi, ASC Mr. M.A. Zaidi, AOR |
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| Const.P.23/2003 | Nawab Ayaz Khan Jomezai Vs. Federation of Pakistan & others | Mr. S. Iftikhar H. Gillani, ASC Mr. M.S. Khattak, AOR |
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| Const.P.24/2003 | Syed Jalal Mehmood Vs. Federation of Pakistan & other | Sahibzada Ahmed Raza Qassuri, Sr. ASC |
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| | For the respondents | Mr. Makhdoom Ali Khan Attorney General for Pakistan Assisted by Mr. Shahid Karim & Mr. Khurram M. Hashmi Advocate High Court Mr. Mehr Khan Malik, AOR |
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| | On Court notice | Mr. Shabbar Raza Rizvi, A.G. Punjab Mr. Jehanzab Rahi, A.G. NWFP. |
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| | Date of hearing | 6 th & 7 th of February, 2003 |

SHORT ORDER

SH. RIAZ AHMED, CJ. Through this common short order, we propose to dispose of the captioned petitions which were filed under Article 184(3) of the Constitution of Islamic Republic of Pakistan, assailing insertion of Article 8 AA in the Conduct of General Elections Order 2002 (Chief Executive Order No. 7 of 2002) whereby it was enacted that a person who had been defeated in the elections of National and Provincial Assemblies held in October 2002, shall be disqualified to contest the election for a seat in the Senate. After hearing learned counsel representing the petitioners in these petitions and Mr. Makhdoom Ali Khan, the learned Attorney General for Pakistan, and for reasons to be incorporated subsequently through a detailed order, we hold that Article 8-AA *ibid*, is discriminatory in nature and as such violative of Article 25 of the Constitution of Islamic Republic of Pakistan. We further hold that disqualification attributable to defeat in consequence of lawful act of contesting election of the National and Provincial Assemblies should have been provided in the original order itself, being impugned herein, so that, the affected persons should have an opportunity to avoid to suffer such disqualification.

Announced in open Court at Lahore on 10-02-2003.