

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ.
Mr. Justice Jawwad S. Khawaja
Mr. Justice Sh. Azmat Saeed

Criminal Original Petition No.92 of 2013

(Contempt proceeding against Imran Khan, Chairman PTI)

On Court's Notice: Mr. Muneer A. Malik,
Attorney General for Pakistan

For alleged contemnor: Mr. Hamid Khan, Sr. ASC
Mr. M.S. Khattak, AOR with
Imran Khan

Date of hearing: 02.08.2013

O R D E R

Iftikhar Muhammad Chaudhry, CJ.— Mr. Hamid Khan, Sr. ASC has placed on record two documents in the form of explanations, and he reserved his right to file detailed reply of the notice if need be. Contents of the said explanations are reproduced hereinbelow for reference: -

"EXPLANATION No. 1:

1. THAT Imran Khan has neither committed contempt of court under the law or the Constitution nor would even think of doing so.
2. That Imran Khan has not started any campaign either to scandalize the Court or to bring judges into hatred, ridicule or contempt. On the contrary, he has always struggled to uphold dignity and independence of the Supreme Court and the judiciary in general.
3. That Imran Khan believes in the rule of law, supremacy of the Constitution and independence of judiciary and, for this reason, he and his party was in the forefront of the movement for rule of law and restoration of judiciary.
4. That, after the general elections, Imran Khan has repeatedly requested and appealed to the Supreme Court

to redress the grievance of his party which has suffered massive electoral rigging at the hands of ECP and its officials. This clearly establishes that Imran Khan and his party have high expectations from the Supreme Court that justice would be done to them and that their grievance would be redressed.

5. It is respectfully submitted that the notice may kindly be recalled."

"EXPLANATION No. 2:

Respectfully Submitted

1. That the press statement was made in good faith on 26th July, 2013 where in reference to the 'Judiciary' was for the Returning Officers and/or District Returning Officers (belonging to the Subordinate Judiciary), assigned to the election process.
2. That Mr. Imran Khan has high respect and esteem for the Supreme Court of Pakistan and has high expectations from this Honourable Court for redressal of the grievances of the PTI arising out of the general elections."

2. We have drawn his attention towards one of the press clippings (Press Conference of Imran Khan dated 26.07.2013) which is reproduced hereinbelow: -

پریس کانفرنس عمران خان

مورخہ 26 جولائی 2013ء

ہم سمجھتے ہیں کہ الیکشن کمیشن اور پاکستان کی عدلیہ کا جو پچھلے الیکشن میں رول تھا وہ یہ پاکستان کی تاریخ میں سب سے شرمناک رول تھا۔ انہوں نے پاکستان کا وہ الیکشن کرایا جس کی پاکستان کی تاریخ میں کبھی اتنی دھاندلی نہیں ہوئی۔ اور ان کا رول بالکل غیر جانبدار نہیں تھا۔ مجھے خاص طور پر پاکستان کی عدلیہ سے تکلیف ہے جس کے لیے ہم سڑکوں پر نکل آئے، میں جیل گیا ان کے لیے، دو مرتبہ لائٹ مارچیں کی، صرف اس لیے کی کہ جب ملک میں عدالتیں آتی ہیں تو تب ملک میں صاف اور شفاف الیکشن ہوتے ہیں۔ لیکن اس عدلیہ کے نیچے، اس الیکشن کے نیچے، پاکستان کی تاریخ کا وہ الیکشن ہوا ہے جس کا ہر سارے دھاندلی کے ریکارڈ توڑ دیے گئے۔ انشاء اللہ کچھ دنوں میں ہم آپ کو پیپرز جاری کرینگے جس میں ہوگا کہ کس طرح کے الیکشن ہوئے۔

3. Selection of the words used against judiciary, Mr. Hamid Khan argued, is in a different context, for which explanation has been given and he has pointed out the same verbally.

4. it was pointed out to him that the Judiciary (عدلیہ) is required to be respected and if there is any grievance, the remedy is available under the law, but using the words "شرمناک", *prima facie*, tantamounts to abusing the Judiciary. The Courts try their best to avoid asserting itself in such like situation but are compelled to look into a matter where not only the dignity or respect of a Judge but of the entire Institution is involved, and the Courts are constrained to call for an explanation. The explanations noted above have been examined carefully and are hereby rejected not being satisfactory.

5. Learned counsel has pointed out his grievance in respect of an application which was filed in C.R.P. No.191/2012 in Constitution Petition No.87/2011 (Workers Party Pakistan v. Federation of Pakistan etc.) as far back as 08.06.2013. He further stated that the grievance of the Chairman PTI was that his application is not being disposed of. We have pointed out to him that perhaps the correct facts have not been brought into his notice as this application was returned by the office on the same day by passing the following order: -

"That the above titled C.M.A. filed by you is not entertainable on the ground that instead of making this

application in a pending Review Petition the applicant should approach the appropriate forum and avail the proper remedy available under the law, if so advised.

Hence this C.M.A. in C.R.P. 191/2012 in Constitution Petition No.87/2011 is returned herewith in original being not entertainable along with its paper books."

6. Against the order of the Institution Officer who exercises delegated powers of the Registrar of this Court, a Civil Miscellaneous Appeal No.82/2013 was filed under Order V rule 3 of the Supreme Court Rules, 1980 and thereafter no request has been made for fixation of the case either by the Senior ASC or his AOR. The cases are fixed in the Supreme Court under policy guidelines and wherever there is any sort of urgency, a request is to be made for out of turn fixation of the case, otherwise out of total pendency, which is about 19,000 cases; it is not possible to fix all the cases and dispose them of on the same day. However, by following procedure under Supreme Court Rules, 1980 on an urgent application such appeals could possibly be heard.

7. In addition to the above, learned counsel has been appraised about 31 Election Petitions under section 52 of the Representation of People Act, 1976 filed by the candidates of Pakistan Tehreek-e-Insaf (PTI) before Election Tribunals requesting for, *inter alia*, examining the thumb impressions of the voters through the process of biometric system, particularly, in respect of the following four constituencies: -

S#	Constituency No.	Election Petition No.	Title of the case
1.	NA 122 Lahore-V	No.11(315)/2013	(Imran Khan Niazi vs. Sardar Ayaz Sadiq and others)
2	NA-125 Lahore VIII	No.11(194)/2013	(Hamid Khan vs. Khawaja Saad Rafiqu and others)
3.	NA-110 Sialkot-I	No.11(344)/2013	(Usman Dar vs. Khawaja Muhammad Asif and others)
4.	NA 154 Lodhran-I	No.11(355)/2013	(Jehangir Khan Tareen vs. Muhammad Siddique Khan Baloch and others)

7. Learned counsel requests for time to file reply of notice. Adjourned to 28.08.2013.

Chief Justice

Judge

Judge

Islamabad, the
2nd August, 2013
Nisar/*