

**IN THE SUPREME COURT OF PAKISTAN**  
(Original Jurisdiction)

Present:

**MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, CJ.**  
**MR. JUSTICE GULZAR AHMED**  
**MR. JUSTICE SHEIKH AZMAT SAEED**

**CONSTITUTION PETITION NO.77 OF 2010**  
(President Balochistan High Court Bar Association  
vs.  
Federation of Pakistan, etc.)

**AND**

**H.R.C. NO.13124-P/2011**  
(Application by Altaf Hassan Qureshi)

**AND**

**H.R.C. No. 40403-P/2011**  
(Application by Syed Majeed Zaidi)

**AND**

**H.R.C. No. 40220-G/2011**  
(News clipping)

**AND**

**H. R. C. No. 43103-B/2011**  
(Application by Haji Abdul Qayyum)

**AND**

**H. R. C. No. 17712-B/2012**  
(Application by Misbah Batool for recovery  
of her husband, Asif, FC Personnel)

**AND**

**H.R.C. 27045-K & 27619-G/12**  
(Abduction of Dr. Ghulam Rasool)

**AND**

**H. R. C. No. 30044-B/2012**

(Anonymous application against Police Officers)

**AND**

**H. R. C. No. 30047-G/2012**

(Application of Ms Zuhra Yousif, Chairperson HRCP)

**AND**

**H. R. C. No. 30711-B/2012**

(Application for recovery of Habibullah Mujahid)

**AND**

**H. R. C. No. 30713-B/2012**

(Application of Syed Mumtaz Ahmed Shah,  
Chief Editor, Daily Mashriq)

**AND**

**C.M.A. No. 42-43 OF 2012.**

(Enquiry report of Kharootabad Incident)

**AND**

**C.M.A. NO.178-Q OF 2012**

(Appeal for missing persons cases of Balochistan)

**AND**

**C.M.A. NO. 219-Q OF 2012.**

(Application by Maj. (R) Nadir Ali)

**AND**

**C.M.A. NO. 431-Q OF 2012.**

(Target Killing of Mr. Zulfiqar Naqvi, ASJ)

**AND**

**CMA 516-Q/2012**

(Application by Mr. Nasrullah Baloch)

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For the petitioner(s)	Malik Zahoor Shahwani, ASC/ President Balochistan High Court Bar. Mr. Sajid Tareen, ASC/Sr. Vice President Mr. Baz Muhammad Kakar, ASC Mr. Sanaullah Ababki, ASC
For the Applicants/ Complainants:	Nemo (CMA 178 & 516 Q/12) (in CMA 3966/2012)
For PMA	Dr. Sultan Tareen, Dr. Saadat Khan and Dr. Shams Kakar (Applicants in CMA No.524-Q/2012)
For Fed. of Pakistan:	Mr. Dil Muhammad Alizai, DAG
For M/o Interior:	Mr. Muhammad Munir Paracha, ASC Mr. Masood-ur-Rehman Tanoli, Director, NCMC
For M/o Defence:	Commander Hussain Shahbaz, Director (L)
For Govt. of Balochistan:	Mr. Shahid Hamid, Sr. ASC Mr. Amanullah Kanrani, A.G. Mr. Azam Khattak, Addl. AG Mr. Babar Yaqoob Fateh Muhammad, Chief Secretary, Balochistan Mr. Akbar Durrani, Secretary Home Mr. Saqib Javed, Addl. Secretary Home Mr. Tarik Umer Khattab, IGP, Balochistan Mr. Feroz Shah, DIG (CID) Mr. Hamid Shakeel, DIG (Investigation) Mr. Tariq Manzoor, SP (CID) Mr. Bashir Ahmed DSP (CID)
For IG FC:	Nemo
For FBR:	Dr. M. Shamim Rana, ASC
For Mobile Operators:	Mr. Raza Kazim, Sr. ASC
For PTA :	Mr. Afnan Karim Kundi, ASC
Dates of hearing :	20.12.2012

**ORDER**

**IFTIKHAR MUHAMMAD CHAUDHRY, CJ.-** Mr. Shahid

Hamid, learned counsel for the Government of Balochistan has submitted a Progress Report (CMA No.5296 of 2012), purporting to indicate an improvement in the law and order situation in the Province of Balochistan. The Petitioner/President, Balochistan High Court Bar Association and the other counsels have contradicted the stand and pointed out that since 5<sup>th</sup> December, 2012, instead of any improvement in protecting the lives and properties of the citizens, the situation has badly deteriorated. It would be appropriate to reproduce herein below the Report, submitted by Mr. Shahid Hamid, learned counsel for the Government of Balochistan:-

*“In compliance of this Hon’ble Court order dated 05.12.2012, the Home Secretary Government of Balochistan submits as under:*

**1. ACHIEVEMENTS**

**DOCTORS STRIKE**

*As a result of Provincial Government’s efforts, the doctors have called off their strike in the Province and started providing healthcare facilities through out the Province. After negotiation with PMA, the following were agreed:*

- i. Disciplinary action against 63 doctors shall be withdrawn.*
- ii. Salary of the doctors will be released.*
- iii. Notices to vacate official accommodations shall be withdrawn.*
- iv. The Government of Balochistan is committed to provide security to the doctors, so that in future such incidents of kidnapping could be avoided.*

**IMPROVEMENT OF LAW AND ORDER SITUATION IN MEKRAN DIVISION AND KHUZDAR DISTRICT**

*As a result of measures taken by the provincial Government, law and order situation in Mekran Division in general and Khuzdar District in particular is improving and the confidence of the general public is being restored gradually. A substantial improvement in law and order has been observed and all government functionaries are performing to the best of their ability.*

*The Press Club Khuzdar which was dysfunctional since long has now been function and journalists are performing their professional activities in Press Club.*

**ARREST OF GANG INVOLVED IN KIDNAPPING FOR RANSOM**

*On 10.12.2012, the Levies Mastung in an encounter with kidnappers recovered the abductee Muhammad Qasim and arrested following seven accused persons. The said gang was involved in other incidents of kidnapping for ransom. The investigation of the case has been shifted to crime branch for specialized investigation:*

- i. Azeem Khan son of Muhammad Ismail Caste Shahwani r/o Quetta.*
- ii. Anayatullah son of Habib Caste Pirkani r/o Burma Hotel Quetta.*
- iii. Bilal Ahmed son of Akhtar Muhammad Caste Shahwani r/o Mastung City.*
- iv. Ali Nawaz son of Shah Muhammad Caste Kurd r/o Quetta.*
- v. Khair Muhammad son of Shah Muhammad Caste Shahwani r/o Mastung.*
- vi. Mudasar son of Saeed Ahmed Caste Shahwani r/o Kechi Baig Quetta.*
- vii. Hamza son of Pir Muhammad Caste Mengal r/o Noshki.*

**RECOVERY IN KIDNAPPING FOR RANSOM CASES**

- i. Qadir Ahmed son of Ganguzar (NADRA employee) resident of Turbat was kidnapped for ransom two months ago. The Kech Levies recovered the abductee on 17.12.2012.*

- ii. *Muhammadullah son of Raz Muhammad Khilji r/o Nawan Killi Quetta was abducted for ransom on 16.12.2012 and District Administration Bolan recovered the abductee on the same day.*
- iii. *Nawab Khan son of Nazar Muhmmad Caste Balochi r/o Turbat was kidnapped on 12.11.12. The abductee reached home safely on 15.12.2012.*

### **MISSING PERSONS**

- i. *Muhammad Asif son of Khair Muhammad was reportedly missing since 25.8.2012. The said missing persons reached home safely on 15.12.2012.*
- ii. *Abdul Ghafoor son of Abdul Qadir was reportedly missing since 26.12.2009 and allegation was against secret agencies. The Hon'ble High Court of Balochistan vide order dated 18.12.2012 dismissed the petition filed by relative and hold that case of petitioner does not fall in the category of missing persons.*
- iii. *Khadim son of Khair Muhammad was reportedly missing since 17.9.2012 and the allegation of abduction was allegedly leveled against FC. The Hon'ble High Court of Balochistan dismissed the CP No.688/12 and hold that FC or any State Agency would not have any reason to abduct Khadim Hussain and the petition is an abuse of process filed for ulterior purposes. The Hon'ble Court also directed to pay cost of Rs.5000/- to the Government of Balochistan.*

### **3. STEPS TAKEN BY THE PROVINCIAL GOVERNMENT TO IMPROVE THE LAW AND ORDER SITUATION**

*The Government of Balochistan has taken following steps to improve law and order situation in the Province:*

- a. *A meeting under the Chairmanship of Chief Minister Balochistan was held on 11.12.2012 to review the law and order situation in the Province. Minutes of meetings are enclosed as (ANN-A)*
- b. *It is decided to establish a dedicated force for the arrest of sectarian violence and kidnapping for ransom incidents in Quetta District. In this regard the Inspector General of Police was given the task to establish the force and provide necessary human resource and logistics.*
- c. *A special session of the Provincial Assembly is summoned on 19<sup>th</sup> December 2012 to discuss Law and Order*

*situation in the Province and suggest measures to improve the situation.*

- d. *In pursuance of decision of Government of Balochistan regarding constitution of Divisional Law and Order Committees, the Divisional Commissioners holds weekly meeting to review the law and order situation at divisional level. Minutes of meetings are enclosed as (ANN-B)*

4. **PROGRESS OF INVESTIGATION IN CASES i.e. MISSING PERSONS, TARGET KILLINGS, SECTARIAN KILLINGS AND KIDNAPPING FOR RANSOM**

*In compliance of order dated 12.10.2012, so far 427 cases of missing persons, mutilated dead bodies, kidnapping for ransom and target killing have been shifted to Criminal Investigation Department. The Criminal Investigation Department is actively investigating these cases. The up to date progress report of investigation of each case prepared by DIG, CID has already been filed before this Hon'ble Court.*

5. **REHABILITATION OF IDPs OF DERA BUGTI**

*In response to advertisement published in news papers for filing of claims, the District Administration has received 18205 claims. After receipt of claims, the verification process of claims is under way. Earlier Committees had cleared six thousand claims for financial assistance. The process of verification has been started with Tehsil Dera Bugti where the verification is being done at Mouza level. The process of verifications of claims is taking time due to disturbed law and order situation and various nature of claims submitted by the applicants and huge sum of money which needs to be disbursed as per rules and policy issued by the Government of Balochistan.*

6. **PAYMENT OF COMPENSATION TO THE VICTIMS OF TERRORISM**

*In pursuance of compliance of Interim Order dated 12.10.2012, the Provincial Cabinet has approved enhancement for payment of compensation to the legal heirs of victims of terrorism from Rupees 0.4 to 1.0 Million. The Home Department has taken up the case with Finance Department for release of balance of amount of Rupees 82 Millions for payment of compensation to the legal heirs of (whose mutilated dead bodies were recovered).*

7. **CMA NO.2346 OF 2012 REGARDING ISSUANCE OF SIMS**

*The Provincial Government is of the view that if the order dated 21.5.2012 regarding issuance of 5 SIMs per CNIC is being*

*implemented only for the Province of Balochistan; it would not serve the purpose to stop the illegal use of mobile phones in crimes. The person who intends to use mobile phones in any crime can purchase SIMs from other Province which can be used all over the country. In a recent case of kidnapping for ransom of Dr. Saeed, the Quetta Police in collaboration with Bahawalpur Police arrested a gang of three persons involved in activating un-registered SIMs fraudulently by means of identity theft using the data of different people obtained through voters list. The said gang used to activate 600/700 SIMs daily which were supplied in blackmail market through out the country for illegal use.*

*In view of above, the Government of Balochistan strongly opposes the contention of applicants and request that order dated 21.05.2012 may be implemented in letter and spirit through out the country.*

*Compliance report is submitted for perusal, please.*

*Sd/-*  
**(AKBAR DURRANI)**  
**HOME SECRETARY"**

2. Similarly, the details of the incidents (CMA No.5308 of 2012), pointed out by Petitioner-Malik Zahoor Shahwani, learned ASC/President of Balochistan High Court Bar Association, are also reproduced herein below:-

*"Kidnapping for ransom*

*That on 11 December, 2012, Doctor Abdul Aziz Bolaidi Child Specialist kidnapped from Sariab Road Quetta.*

*Riaz Ahmed Badiani kidnapped dated 10.12.2012*

*11.12.2012, Two persons kidnapped from Peihbogi Dera Bugti Mashkool and Jamal*

*Target Killing*

*Dated 05.12.2012 Hawaldar Ashfaq*

*Altaf Hussain Brother of Hawaldar Ashfaq, sectarian killing Shia*

*Liaqat cost Lang*



08.12.2012

*Manzoor Ahmed, Sub Inspector died in target killing  
District Peshin Kabeerwala Dera Ghazi Khan*

13.12.2012

*Khan Ali Hazara  
Taj Muhammad targeted in Kandhari Bazaar Quetta*

*Shabbir Hussain, Naib Qasid Civil Secretariat Quetta targeted in  
Stuart Road Quetta*

*Tailormaster Gul Sharien targeted double road Barch Market  
Quetta.*

*Kutab alias Kutbi targeted in District Zhob in front of  
Imambargah*

17.12.2012

*Director Information Department Balochistan Mirza Ghulam  
Hussain Nori Targeted in Court Road Quetta*

*Zulfiqar Dentist targeted in Much District Kachi dated  
08.12.2012*

*Amirullah s/o Haji Akhtar Muhammad Cost Mousakhel targeted  
District Loralai dated 08.12.2012*

*Maqsood Ahmed targeted in Satellite town Block-IV Quetta*

*Yasir Arfat, Airport Manager targeted in District Panchghor,  
permanent address Lahore. He was Manager in Airport in 2011.*

*Muhammad Ishaq all in District Gawadar permanently residence  
in Karachi targeted in Faqir Colony dated 13.12.2012*

*Doctor Lakhni chand Child Specialist targeted in District  
Mastung dated 14.12.2012*

*Two police persons targeted in District Quetta city dated  
17.12.2012*

### **INJURED AND KILLED IN BLAST**

*On 07.12.2012 Blast in Jan Mohammad Road five people inured*

*District Bolan one person killed in Bolan*

*Imdadullah killed in Blast Kachibeig Sariat District Quetta*

**Injured***Muhammad Asif Police Personnel**On 14.12.2012, blast in Saryyab Road Quetta eight persons injured along with one FC servant**Deputy Commandant FC saved**On 05.12.2012, Hakeem Shah, Rasool Baksh and Moula Bakhs killed during FC attack in his house Turbat district**Attack on Restaurant four persons received injuries Jinnah Road Quetta**Attack on 16.12.2012 Professor Fazl-e-Akmeer Tameer Nao College, Quetta killed**Attack on Bakhtair Domke Member, Provincial Assembly District Bolan**Dead body recovered from District Bolan  
Ahmed Government Servant**Lalakhan s/o Sultan dead body recovered district Killa Abudullah Bazar.**Sd/-**Zahur Ahmed Shah  
Advocate Petitioner  
20.12.2012”*

3. There is no necessity to discuss both the Reports, as comparison of the same is self explanatory and it can conveniently be judged as to whether the law and order situation has improved and as a result thereof the Fundamental Rights of the citizens in terms of Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973, have been fully secured/protected. On behalf of Government of Pakistan, a Report (CMA No.5307 of 2012) has also been submitted, the contents whereof also reproduced herein below:-

*“All departments of Ministry of Interior are assisting the Balochistan Government with a view to improving law and order*

*situation in Balochistan. The comparison of law and order situation in Balochistan from 05 Nov to 19 Dec, 2012 is as follows:*

S.No.	Event Types	Casualties 5 Nov to 19 Nov		Casualties 20 Nov to 03 Dec		Casualties 04 Dec to 19 Dec	
		Incidents	Killed	Incidents	Killed	Incidents	Killed
1	Abduction/ Kidnapping	2	0	3	0	1	1
2	Attack on LEAs	0	0	7	6	2	0
3	Bomb Blasts	1	2	1	1	0	0
4	Cracker Bomb	2	0	2	0	0	0
5	Dogaits	4	2	1	0	0	0
6	Dead bodies Recovered	9	9	5	5	3	3
7	Firing	27	16	16	9	29	14
8	IED Explosions	3	3	4	10	5	1
9	Mine Explosions	1	1	2	2	3	1
10	Motorcycle Snatching	2	1	0	0	0	0
11	Rocket Fired	1	0	1	0	1	0
12	Sectarian Violence	3	4	1	1	0	0
13	Settler Killings	3	3	0	0	0	0
14	Target Killings	1	1	0	0	0	0
Total		59	42	43	34	44	20

2. **Missing Persons.** Efforts to trace Missing persons are in hand. Missing Persons Commission is planning to hold its meeting in Balochistan shortly.

3. **Confiscation of Non Duty Paid Vehicles**

- a. FBR, has seized 56 x vehicles (out of which 11 are the motorcycles) from 1<sup>st</sup> Dec to 13<sup>th</sup> Dec, 2012 from all over Pakistan.
- b. Out of 56 x vehicles, 23 x vehicles have been seized from Balochistan only.

4. **Steps Taken by FC Balochistan**

- a. The required update is as under:-
  - i. Frontier Corps Balochistan is making utmost endeavour to control cross border drug, human trafficking and

*weapons smuggling. Details are as under:-*

<i>Year</i>	<i>Border</i>	<i>Country</i>					<i>Total</i>
		<i>Pakistan</i>	<i>Afghanistan</i>	<i>Bangladesh</i>	<i>Turkey</i>	<i>Tajikistan</i>	
2012	<i>Pak-Iran Border</i>	359	1544	177	3	27	2110
	<i>Pak-Afghanistan Border</i>	63	2549	-	4	-	2616
<i>Total</i>		422	4093	177	7	27	4726

- ii. As shown in the table above, in year 2012, 4726 illegal immigrants were apprehended by Frontier Corps Balochistan and were handed over to FIA.*
- iii. In year 2012, 36315.346 kilograms of various narcotics, 34080 Morphine Injection and 22673 Bottles Liquor and 876 Cans Beer were confiscated by Frontier Corps Balochistan.*

*Sd/-  
(K.M. SIDDIQ AKBAR)  
Secretary  
Ministry of Interior  
Government of Pakistan  
19<sup>th</sup> December, 2012*

4. On the last date of hearing, we have pointed out, in the following terms, the implication of non-enforcement of the Fundamental Rights under the Constitution.

*“5. We had painfully noted in the concluding para of order dated 20.11.2012, that a minimum performance should be shown before the next date of hearing by at least effecting recovery of missing persons without any discrimination as to which area of the Province they belonged. The learned counsel for GOB states that Muhammad Bux has been found not to be missing while the two other persons namely, Samiullah and Din Muhammad have not been found to be missing persons by the learned High Court as they, after commission of crimes made good their escape. Be that as it may, in our opinion, such performance is not sufficient at all. The miseries of nears and dears ones of the missing persons, whose names are also available on our files, are increasing day by day. It may not be out of context to observe that in some of such cases, as per version of the reports as well as the PPO/Inspector General of Police, Balochistan, the FC Personnel’s are involved. In this behalf, there is sufficient material available in the shape of*

*judicial inquiries like in the matter of Abdul Maalik and Bansra. In the case of Zafar Ullah, Zakir Majeed Baloch and Ali Hassan Maingal FIRs have also been registered. In respect of Mehran Baloch and Muhammad Khan Marri cases have been registered, the DIG, CID had been asked to conduct investigation in the matter and it has come on record during the hearing of the case that no progress has been made. At the cost of repetition, we may observe that it is the constitutional responsibility of the Executive Government to ensure protection of the life, failing which all the legal consequences under the law and the constitution are bound to follow sooner or later but at present it is a matter of the commitment and duty under the Constitution. If someone believes that by consuming more time in locating missing persons or failing to provide protection to the life and property of citizens, the problem will go away, he/they are mistaken and are doing so at their own risk and cost because as far as the law and the Constitution is concerned, it has its own way to proceed and get itself implemented in letter and spirit.”*

5. In the light of our earlier Orders and the Reports, which have referred to hereinabove, we have pointed out to the learned counsel for the Government of Balochistan that it is the responsibility of the Executive Government to protect the lives and properties of the citizens, and to take decisions, keeping in view the result of non-enforcement of the Constitutional Provisions, particularly, those for protecting the Fundamental Rights of the citizens in the Province of Balochistan. However, Mr. Akbar Durrani, Home Secretary, Government of Balochistan, stated that the efforts are being made to ensure the protection of the lives and properties of the citizens throughout the Province and now everyone is free to travel on the roads under the protection of the security agencies. Steps are also being taken to provide protection to the Zaireen, who normally travel from Quetta to Taftan for onward Ziarats and except a few incidents, which have

been pointed out in the Report filed today, no other major incident has taken place. The statement of the Home Secretary is not satisfactory, in view of the facts, which have been brought on record by the petitioner-President, Balochistan High Court Bar Association, coupled with the other facts revealed. We have to make a distinction between the crimes, which are being committed on account of non-existence of the authority and crimes where the accused after committing the crimes make good their escape. A few have been arrested by the Levis but not a single person/accused involved in the crime of the sectarian killings has been arrested. Similarly, as far as the persons/victims of kidnapping for ransom are concerned, most of them got released after making payment of ransom. Reference, in this behalf, can readily be made to the case of Habibullah Mujahid, who according to the petitioners paid Rs.35 lacs and to get himself released, which fact has also not been disputed by the Provincial Authorities. After passing the order on 12<sup>th</sup> October, 2012, wherein, we have categorically observed, *“Unfortunately in the instant case Federal Government except deploying FC Troops, has also failed to protect Province of Balochistan from internal disturbances. Similarly, as far as Provincial Government of Balochistan is concerned it had lost its constitutional authority to govern the Province because of violation of fundamental rights of the people of Pakistan”*, we were expecting that the Executive Government would take steps to enforce the Constitution in its real

spirit. It seems that on one pretext or the other questions of the enforcement of Fundamental Rights of the citizens for providing protection to the lives and properties of the citizens remain un-assured inspite of the fact that more than two months have passed, as is evident from the two Reports referred to hereinabove, submitted on behalf of the Provincial Government as well as by the learned counsel for the petitioners.

6. We have pointed out to the learned counsel for the Government of Balochistan that in presence of the above situation, we have to finally dispose of the matter either way, may be on the next date of hearing, therefore, he should come prepare to address us.

7. Mr. Baz Muhammad Kakar, learned ASC stated that on the last date of hearing, he had pointed out that the Doctors working in the Province of Balochistan had been suspended, as they were agitating against the kidnapping for ransom of one of their colleague, Dr. Saeed Elahi, and even prior to his abduction, such kidnapping has become a routine and more than 25 to 30 doctors had become victims and were released, after receiving ransom. According to him, in view of the assurance given that the matter shall be settled, the doctors voluntarily started performing their duties yet, neither they have reinstated nor they have been paid salaries. Mr. Shahid Hamid, learned Sr. ASC stated that he would talk to the Chief Minister and the progress in this matter shall

be made. He may inform in writing to the Registrar of this Court on 21.12.2012 for our perusal in Chambers.

8. In para No.7 of the reply submitted on behalf of Government of Balochistan, reference regarding issuance of five SIMs per CNIC has been made. Learned counsels appearing for Telecom Companies and Pakistan Telecommunication Authority have stated that the learned counsel for the Government of Balochistan may be directed to hand over the copy of the same to enable them to file the reply to para No.7. The learned counsel for the Government of Balochistan is directed to do the needful, so that the learned counsels for Telecom Companies and PTA can file their replies.

9. The case is adjourned to 14.1.2013 at Islamabad. If it is decided to hold the hearing of this case at Quetta, the learned counsels for the parties shall be informed accordingly.

Chief Justice

Judge.

Judge.

Islamabad  
20.12.2012

*\*M. Safdar Mahmood \**