

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, CJ
MR. JUSTICE MIAN SHAKIRULLAH JAN
MR. JUSTICE JAWWAD S. KHAWAJA
MR. JUSTICE ANWAR ZAHEER JAMALI
MR. JUSTICE KHILJI ARIF HUSSAIN
MR. JUSTICE TARIQ PARVEZ
MR. JUSTICE MIAN SAQIB NISAR
MR. JUSTICE AMIR HANI MUSLIM

INTRA COURT APPEAL NO. 1 OF 2012

[Against the order dated 02.02.2012 passed by
this Court in Criminal Original No. 06/2012]

Syed Yousaf Raza Gillani
Prime Minister of Pakistan

... APPELLANT

VERSUS

Assistant Registrar
Supreme Court of Pakistan & another

... RESPONDENTS

For the appellant:

Mr. Aitzaz Ahsan, Sr. ASC
Mr. M.S. Khattak, AOR

Respondents:

Not represented.

Date of hearing:

09.02.2012

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ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, CJ. – Attention
of Barrister Aitzaz Ahsan, who is instructed by Mr. M.S. Khattak, AOR
was drawn towards the following questions of law, which according to
them arise for consideration in the instant appeal: -

Questions 45, 51 & 52

45. Could a Prime Minister who undid the draconian action of a
military dictator (of arresting judges of the superior courts,
including the Hon'ble Chief Justice and his children) even

before he had taken oath as Prime Minister, be presumed to have contemplated committing contempt?

51. Whether it is not ironic that a Prime Minister who released the detained judges should be sent to prison, or sentenced otherwise, by the judiciary?
52. Can the duly elected Prime Minister of Pakistan not even expect to be dealt with in a manner similar to real, actual and blatant contemnners of the variety that:
 - Sacked the superior courts and their judges in November 2007;
 - Expressly and brazenly flouted the historic order dated November 3, 2007;
 - Arrested the judges of the superior courts along with their children members of their families, detained and continued to hold them captive for prolonged periods;
 - Promulgated and/or applied and administered anti-judiciary laws such as the PCO and the Judges, Oath of Office Order;
 - Unleashed brutal state violence on Members of the Bar (as officers of the Court) and other citizens of Pakistan seeking the reinstatement of the sacked judges;But have yet to be formally charged and indicted for their patently criminal actions?

They were further apprised that the questions reproduced hereinabove were phrased in such a manner, which should not have been recorded by the appellant who is the incumbent Prime Minister of Pakistan and is supposed to possess highest moral values being the constitutional head and the impression is being created as if the judiciary as a whole is being influenced on account of alleged favourable actions done by him for its members by performing the acts noted therein. Therefore it is tantamount not to embarrass the Court, but the appellant himself as he ought not to have claimed relief or presumed that some relief should be given to him for such action. The learned counsel appearing on his

behalf, however, stated that these questions were framed with a view to show respect and deference to the judiciary and in no manner it should be considered that perhaps the judiciary is being influenced for any purpose. However, under instructions received from the learned AOR of the appellant, he stated at the bar that the above questions be deleted from the pleadings.

2. On having considered the request of the learned counsel and also considering that the above questions are being required to be deleted under instructions from the appellant through his AOR, we accede to the request so made. Consequently, questions No. 45, 51 and 52 are deleted from the pleadings.

3. Similarly, in the CMAs wherever these questions have been repeated shall be deemed to have been deleted under instructions received by the learned counsel for the appellant through his AOR.

4. Mr. Aitzaz Ahsan, Sr. ASC is continuing with his arguments, which are not likely to be concluded in the course of the day. It is already 4.00 p.m., as such the case is adjourned for 10.02.2012.

IFTIKHAR MUHAMMAD CHAUDHRY, CJ.

MIAN SHAKIRULLAH JAN, J.

JAWWAD S. KHAWAJA, J.

ANWAR ZAHEER JAMALI, J.

KHILJI ARIF HUSSAIN, J.

TARIQ PARVEZ, J.

MIAN SAQIB NISAR, J.

AMIR HANI MUSLIM, J.

Islamabad, the
9 February, 2012