

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE TASSADUQ HUSSAIN JILLANI, HCJ
MR. JUSTICE KHILJI ARIF HUSSAIN
MR. JUSTICE SH. AZMAT SAEED

CIVIL APPEAL NO. 297 OF 2014

(On appeal from the judgments dated
3.2.2014 passed by the Lahore High Court,
Lahore in WP No. 31986/2013 etc)

Election Commission of Pakistan through its Secretary

... Appellant

VERSUS

Province of Punjab through its Chief Secretary and others

... Respondents

For the Appellant:

Mr. Muhammad Akram Sh, Sr. ASC
assisted by Mr. Moazzam Habib, Advocate
Mr. Faraz Raza, Advocate and Mr.
Mehmood A. Sheikh, AOR
Mr. Sher Afghan, D.G, ECP
Mr. Abdur Rehman, Law Officer

For the Respondents:

Mr. Mustafa Ramday, Advocate General
Barrister Waseem Qureshi, Addl. A.G.
Mr. Muhammad Azhar Siddique, ASC
Mr. Muhammad Saleem, Asstt. Director,
Local Government Bhakkar
Mr. Haq Nawaz, in person
Mr. Muhammad Khan, Narowal, in person
Mr. Muhammad Fakhar-uz-Zaman, in
person
Mr. Muhammad Sarwar, in person

On Court Call:

Mr. Salman Aslam Butt, Attorney General
Mr. S.M. Attique Shah, Addl. Attorney
General

Dates of Hearing:

17 to 21st February. 2014 & 3,4,12,13 &
19th March, 2014

ORDER

TASSADUQ HUSSAIN JILLANI, CJ.- We have heard

learned counsel for the appellant, for the respondents, learned
Advocate General Punjab and learned Attorney General for
Pakistan.

2. For reasons to be recorded later in the detailed judgment, we hold, declare and direct as under:-

- i) that the power to hold elections of the Local Government stand vested in the Election Commission of Pakistan in terms of Article 140A of the Constitution of Islamic Republic of Pakistan. The Election Commission of Pakistan has been mandated to *"organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against"* (Article 218(3) of the Constitution);
- ii) that Sections 8 to 10 of the Punjab Local Government Act, 2013 and the relevant Rules framed there-under are ultra vires of the Constitution in so far as they empower the Provincial Government to carry out the delimitation of the constituencies for the Local Government;
- iii) that since the delimitation of constituencies of the Local Government is part of the process of organizing and holding elections honestly, justly and fairly which is the Constitutional mandate of the Election Commission of Pakistan, the power to carry out such delimitation should vest with the Election Commission of Pakistan;
- iv) that since the holding of election of Local Government has been delayed for more than nine years, which is

violative of the Constitutional command, we are persuaded to direct the Governments, Federal and Provincial (of Punjab) to carry out appropriate amendments / legislation to empower the Election Commission of Pakistan to initiate and carry out the process of delimitation of constituencies for the Local Government Elections. This exercise should be completed within a period of five months from today and the Election Commission of Pakistan shall thereafter take requisite measures to carry out the process of delimitation of constituencies for the Local Government expeditiously so as to complete the same within a period of 45 days of the enactment/amendments in laws in terms of this order. The Election Commission of Pakistan shall further ensure that the announcement of election schedule and the process of holding it is complete by or before 15th of November, 2014.

3. The appeal stands disposed of in terms noted above.

CHIEF JUSTICE

JUDGE

JUDGE

Islamabad, the
19th of March, 2014
Approved For Reporting
Khurram