

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Present:

Mr. Justice Jawwad S. Khawaja
Mr. Justice Khilji Arif Hussain
Mr. Justice Ejaz Afzal Khan

**C. P. No. 2255 of 2010 & Constitution Petitions Nos. 14, 16, 17 and 18 Of 2013
alongwith CM Appeal No. 157/2009 with CMAs 2335-2337 of 2013 and
CMA 2368 and 2705 of 2013.**

Moulvi Iqbal Haider
Versus
Federation of Pakistan, thr. Secy. M/o Law & Justice etc.

AND

Const.P.14/2013

Lahore High Court Bar Association thr. Its President
Versus
General Rtd. Parvaiz Musharraf and another

AND

Const. P.16/2013

Barrister Amjad Malik, Chairman Association of Pakistan Lawyers (England)
Versus
General Rtd. Parvaiz Musharraf

AND

Const. P.17/2013

Sheikh Ahsan ud Din Advocate Supreme Court
Versus
Federation of Pakistan and others

AND

Const.P.18 of 2013

Abdul Hakeem Khan, ASC
Versus
General Rtd. Parvaiz Musharraf

AND

CMA No. 157 of 2009.

Communist Party of Pakistan vs. Federation of Pakistan & others

For the Petitioner(s): Mr. Muhammad Siddique Khan Baloch, AOR (In CP-2255/2010)
Mr. Hamid Khan, Sr. ASC & Mr. Taufeeq Asif, ASC
(In Const. P. 14/13)
Mr. Arshad Ali Chaudhry, ASC/AOR (In Const. P.16/13)
Sheikh Ahsan ud Din, ASC (in Const.P.17/2013)
Mr. Abdul Hakeem Khan, ASC (In Const. P. 18/13)

For the appellant: Engineer Jamil Ahmed, in person.
(In CM Appeal 157/09)

For the applicants: In person (In CMAs 2335-2337/13 & 2368 & 2705/13)

For the Respondent(s): Mr. Qamar Afzal, ASC (in Const.P.16/2013)
Raja Muhammad Ibrahim Satti, Sr. ASC
(in CP-2255/10 & Const.P.18 of 2013) with
Ms. Shazia Yasin Hashmi, Advocate High Court.

For the Federation: Mr. Munir A. Malik, Attorney General for Pakistan
Mr. Dil Muhammad Alizai, DAG.

Date of hearing: 27.06.2013

ORDER

On 24.06.2013, the learned Deputy Attorney General filed a statement in Court on behalf of the Federation. After going through the same, we had asked the learned Attorney General to flesh out the same by providing particulars as to what steps are envisioned by the Federation to bring the persons guilty of acts under Article 6 of the Constitution, to justice. On behalf of the Federation, pursuant to our order dated 24.06.2013, CMA No.4112 of 2013 has been filed, giving outlines of the process envisioned by the Federation, which reads as under:-

“1. The Prime Minister has directed the Secretary Interior to forthwith direct the Director General FIA to constitute a special investigative team of senior officers to commence an inquiry and investigation in relation to the acts of General (R) Parvez Musharraf of 3rd November, 2007 that may amount to high treason under Article 6 of the Constitution and to finalize as expeditiously as possible the statement of case to be put up by the Federal Government before the Special Court to be constituted under the Criminal Law Amendment (Special Courts) Act, 1976.

2. The Law entrusts the investigation of the offence of high treason to the FIA under entry No.14 of the Schedule of the FIA Act, 1974 read with Section 3(a) and 6 thereof. However, in order to ensure expeditious completion of the inquiry and investigation, the Prime Minister is also considering the constitution of a Commission to oversee and monitor the progress of the proceedings.

3. On the completion of the investigation, the Federal Government shall file the requisite complaint under Section 5 of the Criminal Law Amendment (Special Courts) Act, 1976 and take steps to constitute the Special Court in accordance with Section 4 of the said Act for the trial of the offence.”

2. Learned counsel appearing for the petitioners, after going through the outlines of process envisioned by the Federation, while expressing their satisfaction, stated that the Federal Government should be asked to give a timeframe for completion of the investigation and the date when the Special Court in terms of Criminal Law Amendment (Special Courts) Act, 1976 will be constituted. Mr. Hamid Khan, Sr. ASC appearing for the petitioner in Constitution Petition No. 14 of 2013 stated that since the Federation has decided to initiate investigation and then to file a complaint, the respondent should be taken into custody and the case be registered against him under Article 6 of the Constitution.

3. Raja Muhammad Ibrahim Satti, Sr. ASC has filed CMA No. 4128 of 2013 on behalf of the respondent and stated that after the statement made by the learned Attorney General in Court that due process will be followed and the respondent will be provided fair trial, he has no reservation on the statement filed in Court today on behalf of the Federation. He has, however, contended that in the earlier statement filed in Court by the learned Attorney General (reproduced in our order of 24.06.2013) the reference made to the case of Sindh High Court Bar Association, (PLD 2009 SC 879) may prejudice his client at the trial before the Special Court. We have gone through the earlier statement, and have also heard the learned Attorney General on this score. The anxiety expressed by Mr. Satti is misplaced because the Special Court will be the trial Court and will ensure due process of law to the respondent, and will decide the case in accordance with the established precepts and principles of a fair trial as per law.

4. The pendency of these proceedings does not in any manner, effect the actions of the Government contemplated in the statement reproduced above.

Adjourned to **28.06.2013** for further hearing.

J.

J.

J.

Islamabad,
27.06.2013.
Irshad Hussain/*