

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Jawwad S. Khawaja

Mr. Justice Khilji Arif Hussain

**CMA No. 1674/13 in Constitution Petition No. 105/2012 and
Const. P. 104/12 and CMA 3464/12**

AND

**Constitution Petition No. 105/12 alongwith CMAs 3795 & 3798 of 2012,
HRC No. 23957-S/12 and Const. P. 53/2012**

AND

Constitution Petition No. 117/12.

Mir Hamid and another. ... Petitioner(s)

Versus

Federation of Pakistan etc. ... Respondent(s)

For the petitioner(s): Hamid Mir, & Absar Alam (both inperson)

For the petitioner(s): Mr. Muhammad Akram Sheikh Sr. ASC &
(In Const.P.53/12) Dr. Tariq Hassan, ASC
Syed Safdar Hussain, AOR

For the petitioner(s): Nemo
(In Const.P.104/12)

For the petitioner(s): Nemo
(In Const.P.117/12)

For the respondent-1: Mr. Nasir Jamal, DG & Rashid Ahmed (Secy.)
Muhammad Azam (Press Information Officer)

For the respondents, 2-3: Mr. Hasnain Ibrahim Kazmi, ASC

For the respondent, 4: Syed Zahid Hussain Bukhari, ASC

For the respondent, 5: Ch. M. Hanif Khatana, Addl. A.G. Pb.

For the respondent, 6: Nemo.

For the respondent, 7: Mr. Naveed Ihsan & Mr. Asif Hussain.

For the respondent, 8: Nemo

For the Province of KPK: Syed Arshad Hussain Shah, Addl. A.G.

For the Federation: Mr. Dil Muhammad Khan Alizai, DAG

For USF: Raja Aamir Abbas, ASC

For the respondent-11 & Value TV: Mr. Yasin Azad, ASC
Raja Muqsat Nawaz, ASC

Mr. Arshad Sharif, Bureau Chief, DUNYA TV.
Mr. Ghulam Nabi, President, Press Association SC.
Mr. M. Hanif Awan, in person (CMA 3464/12)
Nemo (HRC 23957-S/12)

For ECP Mr. Ishtiaq Ahmed Khan, Secretary

For M/s Vision Network: Mr. Adnan Iqbal Chaudhry, ASC
 For M/s AURORA: Mr. Munir A. Malik, Sr. ASC
 For Express TV: Nemo.
 For VIVE TV: Nemo
 For PTV: Mr. Shahid Mehmood Khokhar, ASC
 For Punjab TV: Nemo.
 For PEMRA: Hafiz S.A. Rehman, Sr. ASC (In Const.P.104/12)
 For Airways Media: Nemo.
 For ARY: Nemo.
 For Cable Operators: Dr. Amjad Hussain Bukhari, ASC
 For Pakistan Broadcasters: Nemo.
 (In CMA 3464/12) Mr. M. S. Khattak, AOR
 For Indus Television: Tariq Ismail.
 Date of hearing: 02.04.2013

ORDER.

Jawwad S. Khawaja, J. On 28.3.2013, we had passed an order wherein it had been noted that the two-Member Commission appointed by the Court had submitted its report on ToR No. F. This ToR mandated the Commission *“to enquire into allegations of media related corruption and suggest steps to ensure impartial and independent media for the upcoming elections”*. The report on ToR No.F is dated 21.3.2013. Notice was issued to the Election Commission of Pakistan. Mr. Ishtiaq Ahmad Khan, Secretary ECP has appeared. He states that the ECP is already seized of the matter relating to the media Code of Conduct particularly in the context of the forthcoming elections. A draft Code of Conduct has been prepared by the ECP whereas another draft has been proposed by the media bodies and personnel. The ECP is considering these two draft Codes of Conduct. The report on ToR No. F, which has been filed in Court by the worthy Commission, shall also be handed over to the ECP and the parties in these proceedings. The ECP shall, therefore, take into consideration, in its deliberations, the report/recommendations of the Commission while finalizing the Code of Conduct for the media. Since the activities in relation to the elections have already commenced wherein political parties and others are actively engaged, it is our expectation that the ECP shall revise and issue its Code of Conduct. According to the Secretary, ECP, this exercise shall be completed within one week from today. Order accordingly.

2. Vide order dated 20.12.2012, we had directed that the Ministry of Information and Broadcasting shall submit details of the secret funds in Court. We had also observed that, if at all, the Ministry claimed privilege against disclosure of information, it shall disclose the basis for claiming such privilege. Para 13 of our order dated 20.12.2012 was passed in the following terms:-

"Prima facie, while the Ministry may claim privilege from making public disclosure of certain parts of its budget, such privilege is not automatically available to the Government. It must be claimed from the Court. Information for which secrecy is sought must be clearly marked and the reasons for seeking secrecy must also be clearly stated. The Court can then make a determination on this point in line with the law and the Constitution".

The Ministry shall do the needful before the next date of hearing.

3. Other Ministries also statedly were utilizing funds without disclosure. We have also received an application (H.R.C No.12076-S/2013) wherein it has been alleged that a summary has been approved for making payment of very heavy amounts for the purpose of advertisements in a media campaign. It is also alleged that these funds are likely to be disbursed in violation of rules. It has been further alleged that the summaries in respect of disbursement of substantial amounts was approved after the expiry of the term of the previous government. The learned DAG shall ascertain the correct factual position and submit a report before the next date of hearing. Until the next date of hearing, disbursement to any advertising agent/media house shall not be made. The learned DAG shall provide particulars of any such summaries which may have been approved starting from 10.3.2013.

4. To come up on 8.4.2013.

Judge

Judge

Islamabad,
2nd April, 2013
A.Rehman