

IN THE SUPREME COURT OF PAKISTAN  
(REVIEW JURISDICTION)

**PRESENT:**

MR. JUSTICE TASSADUQ HUSSAIN JILLANI, HCJ  
MR. JUSTICE SH. AZMAT SAEED  
MR. JUSTICE MUSHIR ALAM

**C.R.P. NO. 1/2014 IN CONSTITUTION PETITION NO. 20/2013**  
**AND**

**C.M.A. NO. 247/2014 AND C.M.A. NO. 2641/2014 IN C.R.P.**  
**NO. NIL OF 2014 IN CONSTITUTION PETITION NO. 20/2013**

(Action regarding distribution of development funds by ex-Prime Minister Raja Pervez Ashraf)

Review on behalf of SNGPL through MD  
Review on behalf of Federation of Pakistan

(In CRP 1/2014)  
(In CMA 247/2014 in  
CRP No. Nil of 2014)

In Attendance: Mr. Salman Akram Raja, Attorney General  
Mr. Haq Nawaz, Addl. Secretary Finance  
Mr. Waqar Rana, Consultant  
Mr. Dil Nawaz Cheema, Consultant  
Mr. Faisal, ASC in CRP No. 1/2014

Date of Hearing: 14.05.2014

**ORDER**

**C.M.A. NO. 2641/2014**

This is an application on behalf of learned Attorney General for Pakistan who wishes to substitute himself with Mr. Shah Khawar, the then Additional Attorney General, who has been elevated. Subject to all just exceptions, this application is allowed. Let the review petition be numbered.

**CIVIL REVIEW PETITION NO. \_\_\_\_\_ OF 2014**

2. Learned Attorney General for Pakistan submits that the Constitutional intent reflected in Article 84(a) of the Constitution is that in respect of any financial year if an amount authorized to be expended for a particular service for the said year is insufficient, or a need has arisen for expenditure upon some new service, which was not included in the Annual Budget for that year

or (b) any money has been spent on any service during a financial year in excess of the amount granted for the said service for that year, the Federal Government shall have power to authorize expenditure from the Federal Consolidated Fund, whether the expenditure is charged by the Constitution upon that Fund or not, and shall cause to be laid before the National Assembly Supplementary Budget Statement or, as the case may be, an Excess Budget Statement, setting out the amount of that expenditure, and the provisions of Articles 80 to 83 shall apply to those statements as they apply to the Annual Budget Statement. However, this Court in para 39 of the order under challenge has made an observation which is not only violative of Article 84 of the Constitution but also not in consonance with para 31 & 39 of the order under challenge. Mr. Haq Nawaz, Additional Secretary, Finance, submits that the Prime Minister has surrendered his discretionary powers to allocate funds.

3. Having heard learned Attorney General for Pakistan, we find that the Constitutional intent reflected in Article 84 of the Constitution is explicit in authorizing the Federal Government to use the expenditure from the funds indicated therein and that power is available to the Federal Government both for a service which has already been authorized in the Annual Budget or any new service (Article 84(a) and there is no clog which is indicated in the last line of para 39 to which the learned Attorney General has taken exception, which reads as follows:-

*"In fact, rule 197 indicates that in the case of supplementary grants, the assent of the National Assembly is to be obtained before these funds are made available."*

4. *Prima facie*, the submissions made by learned Attorney General require consideration because in terms of Article 84(a)&(b) of the Constitution, the Constitutional intent *ex-facie* appears to be that for the exigencies / services mentioned therein, the Federal Government may expend the amount and thereafter the same be laid before the National Assembly in the supplementary budget or the excess budget statement.

5. Let notice be issued to Secretary Finance and the Auditor General for Pakistan for 2.6.2014. In the meanwhile, no discretionary grant shall be granted either by the Prime Minister or the Minister. No funds shall be expended on any scheme at the behest of any MNA or MPA. However, the Federal Government may proceed to grant expenditure in terms of Article 84 of the Constitution, if it is a scheme of national or public interest. Notice shall also issue to all the applicants in the CMAs noted in the judgment under challenge.

**CIVIL REVIEW PETITION NO. 1/2014**

5. Re-list.

CHIEF JUSTICE

JUDGE

JUDGE

Islamabad, the  
14<sup>th</sup> of May, 2014  
**Khurram**