

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Present:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Jawwad S. Khawaja
Mr. Justice Sh. Azmat Saeed

CONSTITUTION PETITION NO.77 OF 2010

(President Balochistan High Court Bar Association

vs.

Federation of Pakistan, etc.

AND

H.R.C. NO.13124-P/2011

(Application by Altaf Hassan Qureshi)

AND

H.R.C. No. 40403-P/2011

(Application by Syed Majeed Zaidi)

AND

H.R.C. No. 40220-G/2011

(News clipping)

AND

H. R. C. No. 43103-B/2011

(Application by Haji Abdul Qayyum)

AND

H. R. C. No. 17712-B/2012

(Application by Misbah Batool for recovery
of her husband, Asif, FC Personnel)

AND

H.R.C. 27045-K & 27619-G/12

(Abduction of Dr. Ghulam Rasool)

AND

H. R. C. No. 30044-B/2012

(Anonymous application against Police Officers)

AND

H. R. C. No. 30047-G/2012

(Application of Ms Zuhra Yousif, Chairperson HRCP)

AND

H. R. C. No. 30711-B/2012

(Application for recovery of Habibullah Mujahid)

AND

H. R. C. No. 30713-B/2012

(Application of Syed Mumtaz Ahmed Shah,
Chief Editor, Daily Mashriq)

AND

C.M.A. No. 42-43 OF 2012.

(Enquiry report of Kharootabad Incident)

AND

C.M.A. NO.178-Q OF 2012

(Appeal for missing persons cases of Balochistan)

AND

C.M.A. NO. 219-Q OF 2012.

(Application by Maj. (R) Nadir Ali)

AND

C.M.A. NO. 431-Q OF 2012.

(Target Killing of Mr. Zulfiqar Naqvi, ASJ)

AND

CMA 516-Q/2012
(Application by Mr. Nasrullah Baloch)

For the petitioner(s)	Malik Zahoor Shahwani, ASC/ President Balochistan High Court Bar. Mr. Ayaz Sawati, Sr. ASC
For SCBAP:	Nemo
For the Applicants/ Complainants:	Nemo
For Fed. of Pakistan:	Mr. Sajid Ilyas Bhatti, DAG
For M/o Interior:	Nemo
For M/o Defence:	Nemo
For Govt. of Balochistan:	Mr. Shakeel Ahmed Baloch, AG Balochistan Mr. Shahid Hamid, Sr. ASC Mr. Babar Yaqool Fateh Muhammad, Chief Secretary, Balochistan Mr. Mushtaq Ahmed Sukhera, IGP Mr. Akbar Durrani, Home Secretary Mr. Saqib Javed, Additional Secretary, Mr. Rehmatullah Niazi, DIG (CID) Mr. Bashir Ahmed Buzdar, DSP
For IG FC:	Nemo
For FBR:	Nemo
For Mobile Operators:	Nemo.
For PTA :	Nemo
On Court notice:	
For Government of Punjab.	Mr. Mustafa Ramday, AG Mr. Hanif Khatana, Add. A. G

For Government of
KPK: Syed Arshad Hussain, Addl. A. G

For Government of
Sindh: Nemo

Dates of hearing : 17.7.2013

ORDER

Mr. Shahid Hamid, learned Sr. ASC has placed on record details-progress so far made for effecting the recovery of missing persons i.e.

- 1) Month wise break up of target and sectarian killings, 2013;
- 2) Year wise breakup of target and sectarian killings since 2007;
- 3) Summary of kidnapping for ransom in Balochistan from 1-12-2013 to 30.6.2013
- 4) Overall achievements made from time to time to improve the law and order situation and to address the other relevant issues in the province Balochistan
- 5) Actions taken to enhance the Capacity of Balochistan Police to Fight Terrorism.

2. We heard the case at a considerable length and have drawn his attention towards the earlier order passed by this Court reported as President Balochistan High Court Bar Association v. Federation of Pakistan (2012 SCMR 1958). The learned counsel for the Petitioner, President, High Court of Balochistan Bar

Association, expressed his dissatisfaction with the lack of improvement in the law and order situation particularly, the increasing trend of target killings for allegedly sectarian reasons. He stated that within a few days a number of persons belonging to the Hazara Community have been killed including in the recent incident, which took place on 15.7.2013 and prior thereto the incidents which took place in Hazara Town as well as attack upon the buses of Women University at Brury Road, Quetta and also the carnage at the Bolan Medical Complex, Quetta. Besides, the above, some other incidents took place thereafter. It was also one of his grievance that no effective efforts so far have been made for the recovery of the missing persons, although with the intervention of the Court, the evidence had been furnished. So much so Mr. Munir Ahmed, Advocate, who was picked up from the area of Khuzdar has not been returned nor any serious efforts are being made by any of the Agencies for effecting of his recovery.

3. We may agree with the learned counsel and the learned Advocate General that some steps have been taken as a way forwarded to provide protection and security to the citizens of Balochistan, particularly in Quetta, Khuzdar, Panjgur etc but so far the target killings may be for the sectarian reasons or otherwise, have created uncertainty and the people are not feeling themselves secure.

4. We may observe that it is the State, which is responsible to protect the lives and properties of its citizens. The incidents of target killings on the sectarian basis etc are not controlled, it would be very difficult to provide a free atmosphere to the residents to run the affairs of the lives liberally and independently, therefore, in this behalf, the Provincial Government as well as the Federal Government both are required immediately to take effective steps to ensure protection to the lives and properties of the citizens.

5. The learned DAG is present. He is directed to take up this matter with the Federation and submit a report by tomorrow pointing out as to how the Federal Government will provide assistance to the Provincial Government for the purpose of maintaining the law and order as well as ensuring that the lives and the properties of all the citizens notwithstanding whether he belongs to which Ethnic Group or Sect is protected and sectarian killings, which are increasing day by day, are stopped and similarly the people of Quetta and throughout in the Province of the Balochistan feel secure about their lives and property.

6. We are, *prima facie*, of the opinion that for want of a network at grass root level available to be Provincial Government, it is difficult to establish contact with the citizens living in the far flung areas, it was need of the hour as well as constitutional commitment in terms of Article 32 and 140-A of the Constitution of

the Islamic Republic of Pakistan to hold the elections for the Local Government.

7. We have been led to understand by the Chief Secretary that on completion of preliminary issues i.e. delimitation etc, the Provincial Government is contemplating to hold the Local Bodies Elections but unfortunately so far nothing has been done. No doubt newly elected Government has taken over but nothing has been done not only in the Province of Balochistan but also in the other Provinces as well to fulfill the command and the commitment of the Constitution. It is necessary to fulfill the elections of Local Government in order to ensure the participation of the general public in the good governance and also to fulfill the command of the Constitution noted hereinabove, therefore we had issued notices to all the Advocate Generals of Provinces and in response thereto Mr. Shakil Baloch, learned Advocate General, Balochistan stated that the Government is ready to hold the Elections of Local Government but he is not in a position to give a date because a request has to be made to the Election Commission of Pakistan (ECP) under Article 140-A(2) of the Constitution of the Islamic Republic of Pakistan, 1973

8. Mr. Mustafa Ramday, learned Advocate General, Punjab states that he needs a day's time to make a statement. However, on behalf of Government of Khyber Pakhunkhawa, Syed

Arshad Hussain, learned Additional Advocate General has filed as statement duly signed by the Chief Secretary stating that the Government is ready and willing to hold the Elections of the Local Government no sooner the date is given by the ECP.

9. The learned DAG has placed on record a statement on behalf of ICT and stated that ICT Administration is in favour of holding Elections of the Local Government in the Rural Areas under the Capital Territory Local Government Ordinance, 1979 as has announced by the Government but we have pointed out to him that the Elections have to be held both in Rural as well as Urban areas and there should not be any distinction between both the areas for holding elections.

10. No one has appeared on behalf of Advocate General, Sindh. Issue notice to him during the course of day enabling him to appear and make the statement.

11. Let the case be adjourned for tomorrow for filing of the statement by the DAG on behalf of the Federal Government to ensure the maintenance of law and order situation and providing assistance to the Provincial Government. Dates shall also be given by all the Provinces after consulting the concerned functionaries for holding the Elections of Local Government.

12. Notice to the Election Commission of Pakistan be also issued to make representation and submit that for fulfillment of the

Constitutional duties when the Commission will be in a position to hold the Elections of the Local Government. It may not be out of the context to note that for the Cantonment Boards, a date has already been fixed for holding Elections i.e. 15th September, 2013, therefore, it would be appreciated if all the Provincial Governments as well as the ICT and ECP manage to hold such elections within the same period or with a slight change because the Elections of Local Government are to be held throughout in the country.

To come up tomorrow (18.7.2013).

Chief Justice

Judge

Islamabad

17.7.2013

Judge

M. Safdar Mahmood