

**IN THE SUPREME COURT OF PAKISTAN**

(Original Jurisdiction)

**PRESENT:**

MR. JUSTICE JAWWAD S. KHAWAJA  
MR. JUSTICE IQBAL HAMEEDUR RAHMAN  
MR. JUSTICE MUSHIR ALAM

**Constitution Petition No.26 of 2013**

Khurram Shahzad Chughtai ... Petitioner(s)

**Versus**

Federation of Pakistan and others ... Respondent(s)

For the petitioner(s): Mr. Ali Raza, ASC  
Mr. Tariq Aziz, AOR

For the applicant(s): Mr. Athar Minallah, ASC (in CMA-7108/13)

On Court's Notice: Mr. Salman Aslam Butt, Attorney General for Pakistan.

For respondent No.1: Mr. Imran ul Haq Khan, DAG  
(M/o IT) Mr. Muhammad Ayub, Dy. Manager (Legal)

For respondent No.2: Dr. Ismail Shah, Chairman  
(PTA) Mr. Tariq Salman, Member (Finance)  
Mr. Khurram Siddiqui, Director (Law)  
Mr. Munawwar Iqbal, Consultant (Legal)  
Mr. Faraz Khan Jadoon, L.O.

For respondent No.3: Nemo.  
(FAB)

For respondent No.4: Syed Sibte-e-Hassan Gardezi, Acting G.M. (Law)  
Mr. Kamran Masood, Manager (F)

On Court's Notice:  
For Cabinet Division: Mr. Jamil Ahmed, Sh. S.O.

For M/o Finance: Nemo.

Date of hearing 17.03.2014

**ORDER**

We have heard this matter partly. As noted in our previous order we are anxious that this matter is decided at the earliest and if possible, before the auction of 3G and 4G licences. We are told that previously the date of this auction was fixed as 7<sup>th</sup> April, but now it has been postponed to 23<sup>rd</sup> April, 2014.

2. Today, while hearing this petition, we asked the learned Attorney General to show the method of book keeping of the USF and the treatment of the Fund, after the monies of the USF were transferred to the Federal Consolidated Fund (FCF). He stated that the Ministry of Finance would be aware of the book-keeping but today no representative of

the said Ministry, conversant with this aspect of the case is present. He shall, therefore, ensure presence of a fully conversant functionary of the Ministry of Finance to be present in Court tomorrow i.e. 18<sup>th</sup> March, 2014.

3. Additionally, it will be the office of the Auditor General and the Accountant General of Pakistan Revenue (AGPR), who will be fully aware of the rules applicable to the FCF. Mr. Athar Minallah, learned ASC states that the Auditor General has already determined and prepared the Manual of Accounting Principles in exercise of powers under Article 170 of the Constitution in respect of the FCF. This will help in determining the status/constitutionality of the transfer of USF funds from the National Bank and eight other scheduled Banks to the FCF. The office shall issue notice to the Auditor General and to the AGPR Islamabad who may depute officers of their relevant departments conversant with the Manual of Accounting Principles as well as the manner in which the USF and the FCF are maintained and audited according to such Manual.

4. Today, we were also informed by Mr. Kamran, Manager (Finance), USF that prior to the amendment in the USF Rules made in 2013, the USF was earning interest/profit on the funds. In the financial year ending 30<sup>th</sup> June, 2013 a sum of rupees 5.6 billion was earned by the USF as income on the monies of the fund deposited with the National Bank and other scheduled Banks. The Manager (Finance) stated that after the transfer of monies of USF to the FCF not a single rupee has been earned on the sums belonging to the USF.

5. The learned Attorney General for Pakistan submitted that the fundamental issue in this case will revolve around whether or not the monies in the USF can be transferred to the Federal Consolidated Fund (FCF). He stated that even if it is held that the monies in the USF cannot be transferred to the FCF, the fact remains that the investments of USF could have yielded a much higher return than the sum of rupees 5.6 billion as noted above.

6. Let this matter come up for hearing as a part-heard case on 18<sup>th</sup> March, 2014.

JUDGE

JUDGE

JUDGE

Islamabad  
17<sup>th</sup> March, 2014  
*M. Azhar Malik*