

**IN THE SUPREME COURT OF PAKISTAN**

(Original Jurisdiction)

PRESENT: Mr. Justice Iftikhar Muhammad Chaudhry, CJ.  
Mr. Justice Jawwad S. Khawaja.  
Mr. Justice Khilji Arif Hussain.

**Human Rights Case No. 19/1996, etc.**

Air Marshal (Retd.) Muhammad Asghar Khan. Applicant(s).

Versus

Gen. Retd. Mirza Aslam Baig, etc. Respondent(s).

For the Petitioner(s): Mr. Salman Akram Raja, ASC.  
a/w Air Marshal (R) M. Ashgar Khan.

On Court's Notice: Mr. Dil Muhammad Khan Alizai, DAG  
on behalf of AGP.

For Respondent No. 1: Mr. Muhammad Akram Sheikh, Sr. ASC.  
a/w Gen. Retd. Mirza Aslam Baig.

For Respondent No. 2: Lt. Gen. Retd. Asad Durrani, Ex-DG, ISI.

For Respondent No. 3: Mr. Muhammad Munir Peracha, ASC.

For the Applicant(s): Nemo.

For M/o Defence: Commander Hussain Shahbaz, Director (Legal).

For M/o Interior: Khawaja Siddiq Akbar, Secretary.

For HBL: Nemo.

For SPB: Raja Abdul Ghafoor, AOR.

For NAB: Mr. Mazhar Ali Chaudhry, DPG.

Date of Hearing: 04.10.2012.

**ORDER**

In response to the order dated 13.09.2012 reference of which has also been made in the order dated 03.10.2012 the Secretary Defence Lt. Gen. (Retd.) Asif Yasin Malik has submitted the written submission contents whereof are as follows: -

“ In compliance of Para 2 of the Honourable Supreme Court of Pakistan order dated 13<sup>th</sup> Sept, 2012 passed in the subject petition, it is submitted that presently no political cell is functioning in the Directorate General, Inter Services Intelligence or any other agency working under the administrative control of Ministry of Defence.”

2. Similarly, Khawaja Siddiq Akbar, Secretary Interior, Islamabad, submitted following statement: -

“ In compliance of Para-2 of the Honourable Supreme Court order dated 13.09.2012 passed in the subject case, it is submitted that IB/ISI are not working under the administrative control of Ministry of Interior. Furthermore, there is no agency under the administrative control of Ministry of Interior running any political cell.

2. Submitted for kind consideration.”

3. On query he informed that Intelligence Bureau is administratively controlled by the Cabinet Division. Thus in view of such information notice be issued to Secretary Cabinet Division alongwith copy of order dated 13.09.2012 and the instant order with direction to certify or otherwise as to whether there is a political cell in Intelligence Bureau presently or in the past. This certificate/statement must reach to the office of the Registrar before the next date of hearing.

4. Learned counsel for the petitioner when pointed out that as per the contents of various documents/pleadings allegedly in the year of 1990 a cell was functioning in the Presidency and from the perusal of some documents it transpires that M/s Roedad Khan and Jalal Haider were incharge/looking after the affairs of the cell and it was being run under the supervision of the then President of Pakistan, late Ghulam Ishaq Khan, in as much as it is also on record that at some stage when late Farooq Ahmed Khan Leghari, President of Pakistan, was the President some consultation took place between him, Mrs. Benazir Bhutto, Prime Minister and late Naseerullah Babar wherein the affairs of the cell constituted to support Alliance of Political Parties were discussed, therefore, it is necessary to have the view point of the office of the Presidential office through its Secretary because we are of the considered opinion that under Article 41(1) of the Constitution there shall be a President being head of the State and he shall represent the unity of the republic and under Article 243(2) of the Constitution “(2) Without prejudice to the generality of the foregoing provision, the Supreme Command of the Armed Forces shall vest in the President”. Therefore, in view of the constitutional importance of the President of Pakistan who apparently is

symbol of the unity of republic cannot undertake such activities in pursuance whereof allegedly one particular group of the political parties was being supported in the name of national interest. Learned counsel for the petitioner stated that he should have made a request to this Court for impleading the office of the President as party in view of the constitutional provisions and the facts which have been brought on record in pursuance of various documents/pleadings available on the file.

5. On having considered his answer and the legal provisions as well as the material which has been gone through so far we consider it appropriate to implead the office of the Presidency as party through its Secretary. The office is directed that the copy of this order alongwith a letter informing to the Secretary that the office of the President has been made a party and copies of pleadings except the classified documents be sent to the office of the President with further observation to make arrangement for appearance of the Secretary if so advised and desire on the next date of hearing.

6. In the meanwhile, C. M. A. No. 3196/2012 filed by Mr. Roedad Khan is also allowed. Notice be issued to him for the next date of hearing as this matter is lingering on for the last so many years.

7. Mr. Hussain Shahbaz, Commander, stated that the Ministry of Defence has already engaged a learned DAG, however, today no one has appeared despite the fact that on 03.10.2012 case was adjourned in his presence nor there is any intimation on his behalf for not appearing.

8. Let the case be adjourned to 15.10.2012 at Sr. No. 1.

Chief Justice.

Judge.

Judge.

ISLAMABAD.  
04.10.2012.  
(Farrukh)