

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Asif Saeed Khan Khosa  
Mr. Justice Amir Hani Muslim  
Mr. Justice Ejaz Afzal Khan  
Mr. Justice Ijaz Ahmed Chaudhry  
Mr. Justice Sh. Azmat Saeed

**Criminal Miscellaneous Application No. 486 of 2010 in  
Criminal Appeal No. 22 of 2002**

***Adnan A. Khawaja*** *... Appellant*  
*versus*  
***The State*** *... Respondent*

**Suo Motu Case No. 4 of 2010, Civil Miscellaneous Application  
No. 1080 of 2010, Civil Miscellaneous Applications No. 1238  
and 1239 of 2010 and Civil Miscellaneous Application No. 129  
of 2012**

(Suo Motu action regarding appointment of convicted person  
namely Ahmed Riaz Sheikh (NRO Beneficiary), as Additional  
Director General, Federal Investigation Agency)

**Civil Miscellaneous Application No. 1253 of 2010 in Sua Motu  
Case No. 4 of 2010**

(Report submitted in Court by Attorney-General regarding Fact  
Finding Inquiry in the case of Missing Letter No. PS/DG/FIA/  
2009/5047-49 dated 17.11.2009)

**Civil Miscellaneous Application No. 1254 of 2010 in Sua Motu  
Case No. 4 of 2010**

(Additional Documents comprising of Interim Report filed by  
Secretary Law dated 04.04.2010, pointes formulated by Secretary  
for Hon'ble Court, Advice of Former Attorney-General and  
Authorization letter in favour of Mr. Hassan Wasim Afzal, Joint  
Secretary of Ehtisab Bureau dated 20.05.1998)

**Civil Miscellaneous Application No. 1082 of 2010**

(Report/Minutes of Hon'ble Chief Justice of Lahore High Court,  
Lahore)

**Civil Miscellaneous Application No. 3222 of 2012**

(Application filed by Mr. Muhammad Ismail Qureshi)

**Civil Miscellaneous Application No. 3462 of 2012**

(Application filed by Muhammad Ahsan Raja)

For the Federation:

Mr. Irfan Qadir,  
Attorney-General for Pakistan with  
Mr. Dil Muhammad Khan Alizai,

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|  | Deputy Attorney-General for Pakistan.   |
| On behalf of National Accountability Bureau: | Mr. Shaiq Usmani, Sr. ASC,<br>Mr. K. K. Agha, Prosecutor-General Accountability,<br>Mr. Akbar Tarar, Addl. PG. NAB<br>Mr. Fauzi Zafar, Addl. PG. NAB<br>Mr. Mehmood Raza, Addl. PG.<br>Mr. M. S. Khattak, AOR |
| For the applicant:                           | Mr. Wasim Sajjad, Sr. ASC<br>(in CMA No. 3222 of 2012)<br>Mr. Muhammad Ibrahim Satti,<br>Sr. ASC (in CMA No. 3462 of 2012)  |
| For Ahmad Riaz Sheikh:                       | Dr. A. Basit, Sr. ASC   |
| On behalf of Secretary Law:                  | Nemo.   |
| Date of hearing:                             | 08.08.2012  |

### **ORDER**

**Asif Saeed Khan Khosa, J.:** Upon his persistent and willful disobedience in complying with the directions issued by this Court in paragraphs No. 177 and 178 of the judgment handed down in the case of *Dr. Mubashir Hassan* (PLD 2010 SC 265) the former Prime Minister of Pakistan / Chief Executive of the Federation Syed Yousaf Raza Gillani was tried, convicted and sentenced for committing contempt of this Court and consequently he stood disqualified as a member of the National Assembly and also stood removed from the office of the Prime Minister of Pakistan / Chief Executive of the Federation. Thereafter Raja Pervaiz Ashraf, MNA was elected to the said exalted office and on 27.06.2012 this Court had expressed hope and confidence that the new Prime Minister / Chief Executive, who had stepped into the shoes of his predecessor in office, would implement the above mentioned directions of this Court. On that date the learned Attorney-General for Pakistan was required to obtain instructions from the new Prime Minister / Chief Executive in the matter and to inform this Court of his response on the next date of hearing, i.e. 12.07.2012.

2. On 12.07.2012 the learned Attorney-General for Pakistan did not come up with any definite response of the Prime Minister / Chief Executive in the relevant regard. In its order passed on that date this Court reproduced its earlier order dated 08.03.2012 wherein the then Prime Minister / Chief Executive was directed to implement the directions of this Court contained in paragraphs No. 177 and 178 of the judgment delivered in the case of *Dr. Mubashir Hassan* "regardless of any advice tendered earlier or in future" and while reiterating the said direction the present Prime Minister / Chief Executive was also directed accordingly while requiring him to act in the matter forthwith and to cause a report to be submitted before this Court in that regard by 25.07.2012 failing which this Court might initiate any appropriate action under the Constitution and the law. It is quite unfortunate that the Prime Minister / Chief Executive failed even to comply with that order and neither the directions contained in paragraphs No. 177 and 178 of the judgment in *Dr. Mubashir Hassan's* case were obeyed till 25.07.2012 nor any report called for in the earlier order of this Court was submitted by the specified date. Instead, on 25.07.2012 the learned Attorney-General for Pakistan sought time till today to work out a solution to the outstanding issues but no meaningful progress in that regard has been reported by him today.

3. On the last date of hearing the learned Attorney-General for Pakistan had maintained before us that this Court was not properly assisted on facts and law before rendering its judgment in the case of *Dr. Mubashir Hassan* and also at the time of handing down its judgment in the review petition filed in that case and, therefore, the said judgments were, in his words, "unimplementable" and proper recourse for seeking revisiting of those judgments by this Court is being mulled by the Federal Government. We had on the last date of hearing, and we have today, remained unable to subscribe to the said submission of the learned Attorney-General on account of the fact that the said judgments passed by a Larger Bench of this Court and by the Full Court respectively have already attained finality and also because the present Bench is only seized of implementation proceedings

vis-à-vis those judgments. It goes without saying that an implementation Bench cannot go behind a concluded and final judgment or revisit the same. We may observe at this stage, and we observe so with respect to the esteemed elective office of the Prime Minister / Chief Executive, that the ostensible calculated defiance on his part through adoption of dilatory tactics and putting up excuses for resisting implementation of this Court’s directions may know no bounds but at the same time restraint exercised by this Court is also not without any limit.

4. Pushed into such an unfortunate situation we hereby issue notice to Raja Pervaiz Ashraf, Prime Minister of Pakistan / Chief Executive of the Federation, under section 17 of the Contempt of Court Ordinance (V of 2003) read with Article 204 of the Constitution of the Islamic Republic of Pakistan, 1973 to show cause as to why he may not be proceeded against for committing contempt of this Court by not complying with the relevant directions of the Court. He shall, in accordance with the provisions of section 17 of the said Ordinance, appear before the Court in person on the next date of hearing.

5. Adjourned to 27.08.2012.

Judge

Judge

Judge

Judge

Judge

Islamabad  
08.08.2012  
Arif