

**PESHAWAR HIGH COURT, PESHAWAR**

[JUDICIAL DEPARTMENT]

**W.P No.7516-P/2025 with IR**

***Shabbir Hussain***

**V.**

***Pakistan Bar Council through its  
Secretary, Islamabad and others.***

<b>Petitioner(s) by:</b>	In person
<b>Respondent(s) by:</b>	M/S Amin-ur-Rehman Yousafzai, President Peshawar High Court Bar Association, Syed Taimoor Ali Shah, Advocate, Member Khyber Pakhtunkhwa Bar Council, Noor Alam Khan, Advocate, Member, Pakistan Bar council, Muhammad Shahzad Nawaz, Farhan Qadeer, AAGs, and Mian Sibghat Ullah Shah, Advocate.
<b>Research by:</b>	Mr. Mazhar Ali Khan, Research & Reference Officer
<b>Date of hearing:</b>	15.10.2025.

**J U D G M E N T**

**SYED ARSHAD ALI, J.-** Quaid-e-Azam

Muhammad Ali Jinnah's constitutional vision continues to serve as the foundational compass for Pakistan's legal community, particularly for lawyers and Bar Associations who stand as custodians of democracy, justice, and the rule of law. His ideals were not merely political aspirations but guiding principles for building institutions grounded in freedom, fairness, and ethical responsibility. Quaid-e-

Azam, a distinguished jurist, an eminent lawyer, and the founding father of Pakistan and its nationhood, articulated this vision with clarity. As quoted *Quotes from the Quaid*,<sup>1</sup> he stated: “*The establishment of Pakistan for which we have been striving is, by grace of God, an established fact today but the creation of a State of our own was a means to an end and not the end in itself. The idea was that we should have a State in which we could live and breathe as free men and which we could develop according to our own rights and culture and where principles of Islamic social justice could find free play*”.

**2.** While addressing the Karachi Bar Association on 25 January 1948, and emphasising the importance of tolerance and adherence to democratic norms in society, he reiterated the intrinsic link between Islam, democracy, and the rule of law, stating: “*Islam and its idealism have taught democracy. Islam has taught equality, justice and fair play to everybody. What reason is there for anyone to fear democracy, equality, freedom on the highest standard of integrity and on the basis of fair play and justice for everyone. Let make it (in future constitution of Pakistan), we shall make it and we shall show it to the world*”. He further underscored the centrality of due process and personal liberty, affirming that “no

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1. Sharif al Mujahid & Liaquat Merchant, eds, *Quotes from the Quaid* (Karachi: Lightstone Publishers, 2020), 77.

*man should lose his liberty or be deprived of his liberty without a judicial trial in accordance with the accepted rules of evidence and procedure. There is no precedent or parallel that I know of in any other civilized country where you have laws of this character enacted. It imperils the liberty of the subject and fundamental liberties of a citizen".<sup>2</sup>*

**3.** Lawyers are the backbone of the justice system. It is inherent in their legal training to stand for the uplifting of democracy and independence of judiciary, when and where the same is undermined. The legal fraternity has historically upheld constitutionalism, resisted authoritarianism, and played a central role in the restoration of democracy. As Justice V.R. Krishna Iyer aptly remarked about the honour of the profession "*lawyering like justifying rises and falls in reputation and esteem according as they serve the great purpose of delivering justice to the people,*" and when they fail in this duty, the consequences are captured in Shakespeare's cautionary line: "*The first thing we do, let's kill all the lawyers.*" This reminder tells us the nobility and sensitivity of the lawyer's role and reinforces the need for a robust code of conduct, both to preserve the integrity of the profession and to shield its members from internal and external pressures. Besides, they represent clients before courts,

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2. Speech on Criminal Law Emergency Powers Bill, *Imperial Legislative Committee*, 6 February 1919.

advise them on legal rights and obligations, and ensure the protection of their fundamental right to a fair trial. In doing so, they not only safeguard individual rights but also contribute to the development and interpretation of law, thereby making justice more accessible.

**4.** Bar Associations represent the collective conscience of the legal profession. They not only guide the future course of action for the lawyer community but also endeavor to fulfill the functions prescribed to them by law, upholding the rule of law in the process. By their very design, Bar Associations do more than advocate for the interests of individual lawyers; they embody fundamental democratic ideals, including egalitarianism, the protection of human rights, individual liberties, and freedoms. Most importantly, Bar Associations serve a dual purpose: they protect the fundamental right of every individual to be represented in legal matters, and simultaneously safeguard the right of lawyers to represent their clients freely and responsibly. The role of Bar is instrumental in the pursuit of justice as narrated by His Lordship Justice *Tassaduq Hussain Jillani* in a landmark judgment in the case of *Pakistan Bar Council*<sup>3</sup> in these words: “*The twin objectives of dispensation of justice and enforcement of fundamental rights enshrined in the*

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3. *Pakistan Bar Council v. Federal Government and others* (PLD 2007 SC 394).

*Constitution cannot be achieved without a strong and conscientious judiciary and independent and competent Bar. No wonder the United Nations Instrument on Legal Profession stipulates that, ‘independent legal profession is a sine qua non for any system of protection of human rights and fundamental freedoms’.”*

**5.** The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders<sup>4</sup>, reaffirmed principles grounded in the UN Charter and the Universal Declaration of Human Rights, including equality before the law, the presumption of innocence, the right to a fair and public hearing before an independent and impartial tribunal, and all guarantees necessary for the defence of any person charged with a penal offence. The Congress emphasized that every individual is entitled to the assistance of a lawyer of their choice at all stages of criminal proceedings, and that governments must ensure immediate notification of this right upon arrest, detention, or the framing of charges. Where the interests of justice so require, any person without counsel must be provided effective legal assistance by a lawyer of appropriate experience and competence, free of cost if they lack the means to pay.

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4. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders was held in Havana, Cuba, from August 27 to September 7, 1990.

**6.** The right of an accused to be defended by an advocate of their choice, and the corresponding right of an advocate to represent any person before a court of law, are not only internationally recognized but also constitute essential components of the constitutional guarantees of a fair trial and due process under Article 10-A<sup>5</sup> of the Constitution of the Islamic Republic of Pakistan, 1973 (“**Constitution**”). Any infringement of these rights is enforceable before the High Court, which serves as the custodian and guarantor of the fundamental rights of the citizens of Pakistan. With this background, we approach the present writ petitions.

**7.** In the present case, we are confronted with an unexpected and profoundly distressing state of affairs emanating from a segment of the esteemed legal fraternity. A Police Officer, namely Behramand Shah, Station House Officer (SHO), City Charsadda, stands charged with the brutal murder of a young apprentice lawyer, as recorded in FIR No.1277 dated 22.08.2025. The incident was indeed shocking, particularly for the legal fraternity, whose members, in accordance with their professional ethos, initiated protests against such a grievous occurrence. The object of

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5. **10A. Right to fair trial:** For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.

these protests was manifestly to ensure that the accused police officer be brought to justice.

However, the situation assumed an unusual turn when the said police officer sought to surrender before this Court and engaged the professional services of the petitioner, advocate Shabbir Hussain Gigyani, for representation in bail proceedings. This lawful representation was vehemently objected. Such objection is wholly unjustified under democratic principles, constitutional guarantees, and established legal norms. The right of an accused to be represented by counsel of choice is a cornerstone of the administration of justice, enshrined in Article 10-A of the Constitution, which guarantees the right to a fair trial.

The matter did not remain confined to mere objection. A resolution was passed by the worthy Peshawar Bar Association to the effect that no advocate would represent said police office. Here, fundamental right of the accused in respect of his legal representation was tried to be abridged thereby undermining the very foundation of the rule of law. Furthermore, at the time of final hearing of the bail petition, a group of lawyers reacted disproportionately, creating commotion, disorder, and disturbance in the courtroom, thereby undermining the

decorum of the court and impinging upon independence of the judiciary.

The dignity of the respondents and the integrity of the profession rest heavily upon the shoulder of lawyers and elected representative of the Bar, who are normally expected to resolve such matters in accordance with professional ethos, democratic norms and the rule of law.

In the present case, this Court has exhibited utmost restraint to avoid interference in the matter. However, when the representatives of the Bar Council and Bar Associations failed to settle the issue, we are constrained to proceed with the matter, as it is the solemn demand of the judicial oath to administer justice in all circumstances, without fear or favour. It is a settled principle that *fiat justitia ruat caelum*, let justice be done though the heavens fall. The law must prevail over all extraneous pressures, and the sanctity of judicial proceedings cannot be compromised. Accordingly, we now proceed to adjudicate the matter strictly in accordance with law.

**CASE OF MR. SHABBIR HUSSAIN GIGYANI,  
ADVOCATE SUPREME COURT OF PAKISTAN**

**8.** According to the petitioner, the Appeal Committee of the Pakistan Bar Council

(“**PBC**”), while entertaining Appeal No. 14 of 2025, passed an interim order suspending his licence “till the next date of hearing.” It is asserted that the said appeal was filed by the Peshawar High Court Bar Association alleging violation of its resolutions dated 29.09.2025 and 04.10.2025; however, Section 47 of the Legal Practitioners and Bar Councils Act, 1973 (**“Act of 1973”**) permits an appeal to the PBC only against an order passed by the Tribunal of a Provincial Bar Council. The petitioner contends that no such Tribunal order existed, and that proceedings were initiated directly before the Appeal Committee, rendering them incompetent from their inception. It is further asserted that the complaint against the petitioner was never referred to the Disciplinary Committee as mandated by Rule 118 of the Pakistan Legal Practitioners and Bar Councils Rules, 1976 (**“Rules of 1976”**), nor was any notice issued to him prior to passing the interim suspension order, thereby violating Rule 120 of the Rules of 1976. The petitioner maintains that neither the Act nor the Rules empower the Appeal Committee to suspend an advocate’s licence without hearing, and thus the order dated 08.10.2025 suffers from jurisdictional defects, being contrary to Section 42, Section 41(4), and Rule 118 of the Rules of 1976. Additionally, it is contended by the petitioner that under section 13(2) of the

Act of 1973, the remedy provided so far in shape of appeal to the PBC is available against as order or decision of a Provincial Bar Council, the Supreme Court Bar Association or a Bar Association at the national level, thus, the respondent No. 2 (Peshawar High Court Bar Association) has got no locus standi to prefer an appeal against the petitioner to the PBC.

## **GRIEVANCE OF MR. ALI AZIM AFRIDI, ADVOCATE HIGH COURT**

**9.** The petitioner, Mr. Ali Azim Afridi, contends that the Executive Committee of the Khyber Pakhtunkhwa Bar Council (“**KPBC**”), through an “emergency meeting” held on 08.10.2025, issued an Office Order suspending his licence under Rule 15(viii) of the Khyber Pakhtunkhwa Legal Practitioners and Bar Council Rules, 2010 (“**Rules of 2010**”). The suspension was premised on a communication from the Peshawar High Court Bar Association, alleging that the petitioner’s appearance in court during a strike constituted “indiscipline.” It is asserted that under Section 9(1)(c) and Section 10(1)(aa) of the Act of 1973, only the Disciplinary Committee of a Bar Council possesses the jurisdiction to entertain and adjudicate complaints of professional misconduct. The petitioner avers that the Executive Committee

has no disciplinary authority and that its action is, therefore, patently ultra vires the Act. The impugned order, passed without issuing notice or conducting any inquiry, is alleged to be wholly without lawful authority and in violation of the statutory mechanism prescribed for disciplinary proceedings.

## **ISSUE OF MAINTAINABILITY**

**10.** At the very outset of the hearing, learned counsel for the respondents raised objections to the maintainability of the petition, particularly questioning the jurisdiction of this Court under Article 199 of the Constitution. The worthy Members of the Khyber Pakhtunkhwa Bar Council contended that this Court lacks jurisdiction to entertain the present petition, placing reliance upon the judgments of the Hon'ble Supreme Court in **Syed Iqbal Hussain Shah Gillani v. Pakistan Bar Council (2021 SCMR 425)** and **Sardar Qurban Ali Dogar v. Pakistan Bar Council (2022 CLC 649)**. In view of these objections, it becomes imperative to first determine the jurisdictional competence of this Court before proceeding to examine the matter on merits.

**11.** In the case of *Syed Iqbal Hussain Shah Gillani* (supra), the issue before the Apex Court was that the petitioner, a member of the Supreme Court Bar Association, had been

disqualified from contesting the Supreme Court Bar Association Election for the office of Vice President (Khyber Pakhtunkhwa) by an order of the Executive Committee of Bar Council. The petitioner challenged the order of the Executive Committee before the Lahore High Court. The Lahore High Court, vide judgment dated 27.10.2020, dismissed the constitutional petition on the ground of maintainability. The view taken by the Lahore High Court was subsequently affirmed by the Hon'ble Supreme Court, which held that the Bar Council does not perform a sovereign function and, therefore, is not amenable to the constitutional jurisdiction of the High Court.

**12.** Similarly, in the case of *Sardar Qurban Ali* (supra), the controversy arose from the acceptance of a nomination appeal by the Punjab Bar Council and the subsequent dismissal of the petitioner's challenge by the Pakistan Bar Council. The petitioner invoked Article 199 to assail these orders; however, both forums—the Executive Committee of the Punjab Bar Council and the Pakistan Bar Council—were held to be statutory, autonomous bodies not performing functions in connection with the affairs of the Federation or a Province. Relying on the cases of **Mirza Muhammad Nazakat Baig v. Federation of Pakistan through Secretary Ministry of Law and Justice, Islamabad and another**

**(2020 SCMR 631)** and *Syed Iqbal Hussain Shah Gillani* (*supra*), the Court held that bar councils are autonomous statutory bodies not amenable to the constitutional jurisdiction of the High Court.

**13.** With due respect, the precedents cited above are not germane to the controversy at hand. While it is well-settled that disputes among members of a Bar Council, or between a Bar Council and its members, may not ordinarily be enforceable through constitutional jurisdiction on the basis that the Bar Council does not perform a sovereign function of the State—the present matter is materially distinguishable.

**14.** Here, the petition concerns the fundamental rights of two advocates whose licences and authority to practice and appear before the courts have been suspended by bodies or authorities not recognized under the Act of 1973, as competent to exercise such power. It is axiomatic that every advocate possesses a fundamental right to represent a client before the courts, and correspondingly, every litigant or citizen of Pakistan has the fundamental right to be represented by an advocate of their choice, subject only to limited exceptions such as conflicts of interest. Any encroachment on these rights, whether directed at an advocate, a litigant, or a citizen, by an unauthorized person or body,

constitutes a violation of constitutional guarantees and is fully amenable to enforcement by this Court in the exercise of its jurisdiction.

**15.** This principle is well embedded in our constitutional jurisprudence since long. In *Ch. Manzoor Elahi*<sup>6</sup>, the apex Court ruled that the powers of High Court under Article 199(1)(c) of the Constitution are “*expansive*” and the Court “*can exercise them not only where a citizen's fundamental right is offended but also to enforce an individual's right under Article 4 which is inalienable.*” Likewise, in *Human Rights Commission of Pakistan*<sup>7</sup>, the Hon’ble Supreme Court has elaborately delineated the scope of constitutional jurisdiction, particularly in cases involving serious violations of fundamental rights—even where the offending party does not perform a sovereign function. The relevant extracts of the judgment are reproduced below:

“31. It needs to be explained that in matters pertaining to fundamental rights the jurisdiction of the High Court is wider than that available under clauses (a) and (b). In this context the true meaning of the expression "enforcement of fundamental rights" needs to be ascertained. For doing so a comparison of the provisions pertaining to fundamental rights in the Constitutions of US and Pakistan may be appropriate. For instance, the 13th Amendment to the US Constitution forbids slavery and forced labour but provides

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- 6. *Ch. Manzoor Elahi v. Federation of Pakistan and others* (PLD 1975 SC 66)
  - 7. *Human Rights Commission of Pakistan and 2 others v. Government of Pakistan and others* (PLD 2009 SC 507).

that the Congress has the power to enforce this Article through appropriate legislation. Similarly in the 14th Amendment section-1 requires that any State shall not deprive any person of life, liberty or property or equal protection of laws. Section-5 however requires that the Congress shall have the power to enforce by appropriate legislation. These provisions show that while State-action violating or ignoring provisions of the Constitution may be struck down by Courts exercising normal judicial power, the power to positively enforce the rights through appropriate sanctions could be exercised by the Congress alone. It is for this reason that the US Supreme Court was able to give effect to the 14th Amendment in respect of racial segregation in the absence of legislation, only through extending the concept of State-action to State-aided school etc.

33. The reach of clause (c) however is wider. It not merely enables a Court to declare an action of a State functionary inconsistent with fundamental rights to be unlawful but also enables the Courts to practically enforce such rights by issuing appropriate directives as is evident from its language. Accordingly, this Court after having earlier held that the fundamental rights guaranteed by Article-17 included the right of a political party to contest elections as a collective entity was able to issue mandatory directives in the case of Benazir Bhutto v. Federation of Pakistan reported in (PLD 1989 SC 66) to the election authorities to amend the election rules to provide for the same under its powers to enforce fundamental rights under Article-184(3) of the Constitution. Moreover, such directives could be issued to any person including the Government. In the case of Peoples Union for Democratic Rights v. Union of India reported in (AIR 1982 SC 1473) it was held that though some of the fundamental rights imposed negative obligation on the part of the state not to encroach upon individual's liberty etc., there were others, which were positively enforceable against the whole world. We are therefore clearly of the view that' the

High Court has plenary powers to positively enforce fundamental rights not merely against public authorities but even private parties. Accordingly direction for positive enforcement of fundamental rights against private parties could only be given by the High Court in respect of rights guaranteed, *inter alia*, by Articles 11, 22 etc. which might in most cases require enforcement against such parties.”

**16.** Similarly, in the case of *Abdul Wahab*,<sup>8</sup> the Honorable Supreme Court observed: “*In view of the sanctity and the importance of these rights [Fundamental Rights] and for the safeness and the safeguard (saving those from a slightest impairment) thereof the Constitution itself in a noteworthy way, has provided a specific and a special mechanism, in terms of Article 199(1)(c) by virtue whereof notwithstanding the powers of the High Courts under Article 199(1)(a) and (b) an extraordinary power has been conferred on it “to make an order giving directions to any person etc...as may be appropriate for the enforcement of the fundamental rights conferred by Chapter I of Part-II”...*” The above position was re-affirmed in the case of *Pakistan Olympic Association*<sup>9</sup>, wherein the Supreme Court of Pakistan upon examining the question that whether a writ is maintainable against an Association in terms of Article 199 (1) (c) of the Constitution, held that “...*a writ is maintainable under Article 199(1)(c) of the Constitution against any person*

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8. *Abdul Wahab and others v. HBL and others* (2013 SCMR 1383).

9. *Pakistan Olympic Association through President and others v. Nadeem Aftab Sindhu and others* (2019 SCMR 221).

*including the body politic or corporate for the purpose of enforcement of any of the Fundamental Rights conferred by the Constitution.”*

**17.** In view of the foregoing case law and having regard to the fundamental nature of the rights involved, it is evident that the instant petitions are squarely maintainable. The matter concerns the protection of fundamental rights of advocates and litigants—the right of an advocate to practice and represent clients, and the corresponding right of every citizen to be represented by a lawyer of their choice. The present case is neither a petition seeking mandamus or prohibition against State or government functionaries, nor is it in the nature of quo warranto; rather, it squarely falls within the scope of Article 199(1)(c) of the Constitution. These rights lie at the core of the administration of justice and cannot be subordinated to formalistic notions of sovereign function. The High Court, in the exercise of its constitutional jurisdiction, is empowered to intervene wherever any person or body, regardless of its statutory status, infringes these rights. Since the petitions raise questions of serious violations affecting the professional and personal liberties of the petitioners, the objections regarding maintainability or jurisdiction are accordingly overruled.

## MERITS OF THE CASE

**18.** Now turning to the merits of the case, it is evident that the present controversy gives rise to two core questions requiring determination in these connected writ petitions. First, whether, under the prescribed legal framework, the impugned actions taken by the Bar Association and the Bar Council were legally justified and within their competence. Second, whether a Bar Association possesses the authority to issue strike calls or notices directing advocates to abstain from appearing before the courts, and, if so, whether non-compliance with such strike directives can be deemed binding upon advocates who are engaged in the constitutional duty of representing their clients and upholding the fundamental guarantees of fair trial and access to justice.

**19.** In our jurisdiction, the Legal Practitioners and Bar Councils Act, 1973 is a federal statute that regulates the conduct of advocates and legal practitioners, as well as the functioning of bar councils and bar associations. The Pakistan Bar Council is constituted under Sections 3(1)(i)<sup>10</sup>, 11 and 13<sup>11</sup> of the Act of

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10. **3. Constitution and incorporation of Bar Councils.**--(1) There shall be constituted in accordance with the provisions of this Act--  
 (i) a Bar Council for Pakistan to be known as the Pakistan Bar Council;  
 [(ii) a Bar Council for each Province to be known as the Bar Council of the Province concerned]  
 [and (iii) Islamabad Bar Council for Islamabad Capital Territory.]

1973, which establish the Council, define its composition, and prescribe its statutory functions. Likewise, the Provincial Bar Councils, including the Khyber Pakhtunkhwa Bar Council, are created under Sections 3(1)(iii), 5 and 9<sup>12</sup> of the Act, which outline

(2) Every Bar Council shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and to contract, and shall by the name by which it is known sue and be sued.

11. **13. Functions of the Pakistan Bar Council:** [(1)] Subject to the provisions of this Act and the rules made thereunder, the functions of the Pakistan Bar Council shall be:
- (a) to prepare and maintain a common roll of advocates;
  - [(b) to admit persons as advocates entitled to practise before the Supreme Court and to prepare and maintain a roll of such advocates and to remove advocates from such roll;]
  - (c) to entertain and determine cases of misconduct against advocates of the Supreme Court and to award punishment in such cases;]
  - (d) to lay down standard of professional conduct and etiquette for advocates;
  - (e) to lay down the procedure to be followed by its Committees;
  - (f) to safeguard the rights, privileges and interests of advocates including initiation of measures for fair and inexpensive dispensation of justice by the subordinate Courts and tribunals;
  - (g) to promote and suggest law reform;
  - (h) to deal with and dispose of, and to tender advice in relation to any matter arising under this Act which may be referred to it by a Provincial Bar Council [and Islamabad Bar Council];
  - (i) to exercise general control and supervision over the Provincial Bar Councils [and Islamabad Bar Council] [and to issue directions to them from time to time] [which shall be binding upon them];
  - (j) to promote legal education and prescribe standards of such education in consultation with the universities in Pakistan and the Provincial Bar Councils [and Islamabad Bar Council];
  - (k) to recognize universities whose degree in law shall be a qualification for enrolment as an advocate;
  - (l) to manage and administer the property and funds of the Pakistan Bar Council, and to invest any of its funds;
  - [(la) to provide free legal aid;
  - (lb) to hold conferences, seminars, moots, lectures, jurist conferences and other meetings for promoting legal knowledge and learning in the legal profession;
  - (lc) to prescribe conditions for the recognition and functioning of, and to recognise and derecognise, the Supreme Court Bar Association or any Bar Association at the national level;
  - (ld) to give directions in accordance with the provisions of this Act to the Provincial Bar Councils [and Islamabad Bar Council] in respect of the recognition, derecognition and functioning of Bar Association;]
  - [(le) to provide free specialized services for awareness, promotion and enforcement of human rights;]
  - (m) to perform all other functions conferred on it by or under this Act;
  - (n) to do all other things necessary for discharging the aforesaid functions.
- [(2) Any person aggrieved by an order or decision of a Provincial Bar Council, [Islamabad Bar Council], [the Supreme Court Bar Association or a Bar Association at the national level] may, within thirty days of such order or decision, prefer an appeal to the Pakistan Bar Council, whose decision in such appeal shall be final.]
- [(3) The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall apply to appeals under sub-section (2)].
12. **9. Functions of a Provincial Bar Council [and Islamabad Bar Council].**--(1) Subject to the provisions of this Act and the rules

their establishment, composition and functions. The Disciplinary Committee of the Pakistan Bar Council is constituted under Section 15(1)(a), while its powers and functions are provided in Sections 46, 51 and 45 of the Act of 1973. Similarly, the Disciplinary Committee of a Provincial Bar Council, including that of the Khyber Pakhtunkhwa Bar Council, is established under Section 10(1)(aa), with its jurisdiction and powers governed by Sections 39B, 14(4) and 45 of the Act. Furthermore, the Tribunal of the Pakistan Bar Council is created under Section 42(1), and its composition, powers and functions are elaborated in Sections 43 and 45. Correspondingly, the Tribunals of the Provincial Bar Councils are established under Section 42(2), with their powers and functions

made thereunder, the functions of a Provincial Bar Council [and Islamabad Bar Council] shall be—

(a) to admit persons as advocates on its roll; to hold examinations for purposes of admission; to prepare and maintain a roll of such advocates [of the province [or Islamabad Capital Territory] as well as of each [district]; and to remove advocates from such roll;

(b) to admit persons as advocates entitled to practice before the High Court and to prepare and maintain a roll of such advocates;

(c) to entertain and determine cases of misconduct against advocates on its rolls and to order punishment in such cases;

(d) to safeguard the rights, privileges and interests of advocates on its rolls, including initiation of measures for fair and in-expensive dispensation of justice by the subordinate Courts and tribunals;

(e) to promote and suggest law reform;

(f) to manage and administer the property and funds of the Provincial Bar Council [and Islamabad Bar Council] and to invest any of its funds;

(g) to conduct the election of its members;

(h) to prescribe conditions for the recognition and functioning of, and to recognise and derecognise, Bar Associations];

(i) to perform all other functions conferred on it by or under this Act [and to comply with directions given to it by the Pakistan Bar Council from time to time]; and

(j) to do all other things necessary for discharging the aforesaid functions.

- (2) A Provincial Bar Council [and Islamabad Bar Council] may, in accordance with the rules framed by it, and within the limits of the funds at its disposal for that purpose, make free legal aid available to indigent litigants.

likewise set out in Sections 43 and 45 of the Act of 1973. Accordingly, all these bodies—the Pakistan Bar Council, the Khyber Pakhtunkhwa Bar Council, their respective Disciplinary Committees, and their Tribunals—are statutory entities established under the Act of 1973.

### **LEGAL DISPENSATION RELATING TO DISCIPLINARY ACTION AGAINST AN ADVOCATE OF SUPREME COURT**

**20.** Under the scheme of the Act of 1973, read with the Rules of 1976, the Disciplinary Committee of the PBC is constituted under Section 15(1)(a) of the Act of 1973 and Rule 86(a)(3) of the Rules of 1976. The Committee consists of five members, including one Judge of the Supreme Court nominated by the Chief Justice of Pakistan, who acts as Chairman, and four members of the Pakistan Bar Council. It performs quasi-judicial functions and is vested with all the powers of a civil court under Sections 45 and 51 of the Act of 1973, its proceedings being deemed judicial proceedings within the meaning of Sections 193 and 228 of the Pakistan Penal Code, 1860 (“PPC”).

A complaint of professional or other misconduct against an Advocate of the Supreme Court is filed before the PBC under Section 41(2)(a) of the Act of 1973, read with

Rule 117 of the Rules of 1976. Upon receipt, it is dealt with by the Disciplinary Committee in accordance with Section 41(4), read with Rule 118. The Committee may summarily reject the complaint if it finds no *prima facie* substance, except where the complaint is received from the Supreme Court, or, after making a preliminary inquiry and affording both parties an opportunity of being heard, it may either dismiss the complaint or refer it to a Tribunal constituted under Section 42(1) of the Act of 1973. The proviso to Section 41(4) empowers the Committee, only in cases of grave indiscipline or grave professional misconduct where immediate suspension is expedient or necessary in the interest of the administration of justice, to suspend the advocate for a period not exceeding three months, while referring the matter to the Tribunal, which must decide the complaint within the same period. The Tribunal, composed of two members of PBC and one Judge of the Supreme Court as provided by Section 42(1) and Rule 119, conducts a formal inquiry following the procedure in Rules 120 to 126 and records its findings and decision under Rule 127. Any person aggrieved by a final order of the Disciplinary Committee or of the Tribunal of PBC may prefer an appeal to the Supreme Court of Pakistan under Section 48 of the Act,

read with Rule 129, and the decision of the Supreme Court thereon is final.

The proviso to Section 41(4) of the Act of 1973 does not apply to proceedings against an Advocate of the Supreme Court. In such cases, governed by Section 41(2)(a) read with Rules 117–126 of the Rules of 1976, the Disciplinary Committee of PBC is limited to preliminary scrutiny, dismissal, or reference of the complaint. The power of interim suspension lies solely with the Tribunal constituted under Section 42(1), by virtue of Rule 126, which expressly authorizes the Tribunal to suspend the advocate pending inquiry. Any suspension ordered directly by the Disciplinary Committee of PBC would, therefore, be without lawful authority and contrary to the scheme of the Act and Rules.

## **LEGAL DISPENSATION RELATING TO DISCIPLINARY ACTION AGAINST AN ADVOCATE OF HIGH COURT**

**21.** Sections 41 to 47 of the Act of 1973 establish a comprehensive statutory procedure for dealing with complaints of professional or other misconduct against advocates. Under Sections 9(1)(c) and 13(1)(e) of the Act of 1973, the function of dealing with cases of misconduct lies respectively with the Provincial Bar Councils and the Pakistan Bar Council. Disciplinary authority over enrolled advocates vests exclusively in the Disciplinary Committee

of the concerned Provincial Bar Council, constituted under Section 10(1)(aa), which alone is competent to entertain, inquire into, and decide complaints of misconduct. Under Section 41(1)(3), a complaint may be filed by any person, a court, or even by a Bar Council on its own motion. Once received, the complaint is placed before the Disciplinary Committee for preliminary scrutiny. As provided in Section 41(4) of the Act of 1973, the Committee may exercise one of two options: it may summarily reject the complaint if it finds no *prima facie* substance, or, after making a preliminary inquiry and affording both parties a reasonable opportunity of being heard, it may either dismiss the complaint or refer it to a Tribunal for formal adjudication. A complaint originating from the Supreme Court or a High Court cannot be summarily rejected.

The proviso to Section 41(4) confers a limited and conditional power upon the Disciplinary Committee to order immediate suspension of an advocate. Such suspension may be ordered only when the Committee forms a reasoned opinion that (i) the advocate has committed an act of grave indiscipline or grave professional misconduct, and (ii) that immediate suspension from practice is expedient or necessary in the interest of the administration of justice. Even then, the suspension cannot exceed three months, and

the matter must be referred to the Tribunal, which is bound to decide the complaint within the same period. Hence, the Disciplinary Committee has only two substantive powers under Section 41(4) of the Act of 1973: (i) to reject or dismiss the complaint, or (ii) to refer it to the Tribunal. The power of suspension is not independent but ancillary, conditional, and strictly limited by the proviso.

Under Section 41(4A) of the Act of 1973, a Bar Council may also act *suo motu* and refer a matter to its Disciplinary Committee if it has reason to believe that an advocate has been guilty of misconduct. Any complainant whose complaint is summarily rejected has a right of appeal to the Tribunal within thirty days under Section 41(5). The Tribunal, constituted under Section 42, conducts the inquiry, exercises powers akin to those of a civil court under Section 45, and may dismiss the complaint or impose penalties prescribed under the Act. Appeals from the decision of a Provincial Tribunal lie to PBC, where the appeal shall be heard by the Disciplinary Committee of PBC under Section 47 of the Act of 1973, and a further appeal lies to the Supreme Court of Pakistan under Section 48. The Rules of 1976, particularly Rules 108 to 113, reinforce this statutory procedure by prescribing the method for lodging complaints, constitution of inquiry tribunals, service of notice, submission of

defence, and conduct of proceedings. Likewise, the Rules of 2010, especially Rules 17, 18, and 21 read with Chapter IV, require that disciplinary matters be placed before a duly constituted Disciplinary Committee or Tribunal, whose decisions are subject to confirmation or appeal as provided by law. It shall be noted that under Section 41(2) of the Act of 1973, a complaint against an Advocate of the Supreme Court shall be filed before PBC, which shall be marked to the Disciplinary Committee of PBC. Under Section 15 of the Act of 1973, the Disciplinary Committee of PBC consists of a Judge of the Supreme Court, who shall be the Chairman, and four other members elected by the PBC from among its members.

**22.** Examining first the challenge raised by Mr. Shabbir Hussain Gigyani, the record demonstrates that the Appeal Committee of the Pakistan Bar Council entertained an appeal preferred not by a person aggrieved from an order of a Bar Council but by the Peshawar High Court Bar Association. Under Section 13(2) of the Act of 1973, an appeal lies to the Pakistan Bar Council only at the instance of a person aggrieved by an “order or decision” of a Provincial Bar Council, Islamabad Bar Council, Supreme Court Bar Association or a Bar Association at the national level. The statutory right of appeal

does not extend to a Bar Association invoking appellate jurisdiction against an individual advocate. No disciplinary order of the KP Bar Council or its Tribunal existed against the petitioner, and no complaint had been processed under Rules 117–120 of the Rules of 1976. Thus, the Appeal Committee exercised a jurisdiction that had not been validly invoked and further assumed a power of interim suspension which, under the scheme of Sections 41–42 and Rules 118 and 126, it does not possess. It is a settled principle of law that when the law requires an act to be done in particular manner, that act must be done in that manner and not otherwise. The impugned suspension order was therefore issued without lawful authority, contrary to the mechanism prescribed for disciplinary proceedings against an Advocate of the Supreme Court.

**23.** Likewise, the action impugned by Mr. Ali Azim Afridi is equally untenable. The Executive Committee of the Khyber Pakhtunkhwa Bar Council derived no disciplinary jurisdiction from Section 10(1)(aa) of the Act of 1973, which vests such authority exclusively in a duly constituted Disciplinary Committee. Rule 15(viii) of the Khyber Pakhtunkhwa Bar Council Rules, 2010, relied upon for suspending the petitioner's licence, is purely administrative and cannot be construed as conferring quasi-judicial power to initiate,

inquire into, or adjudicate misconduct. The mandatory sequence under Sections 41–42 of the Act of 1973 i.e. receipt of complaint, preliminary scrutiny by the Disciplinary Committee, opportunity of hearing, and, where warranted, reference to a Tribunal, was wholly bypassed. No complaint was placed before the Disciplinary Committee, no notice was issued under the Rules of 1976, and no inquiry was commenced. The Executive Committee thus assumed a jurisdiction that the statute expressly withholds from it, rendering its order *coram non judice* and void.

**24.** In nutshell, the statutory scheme leaves no room for doubt: disciplinary control over advocates is a matter reserved exclusively for the Disciplinary Committees and Tribunals constituted under Sections 10, 15, 41 and 42 of the Act of 1973, read with the corresponding Rules. These bodies alone are vested with the jurisdiction to receive complaints, conduct inquiries, order interim suspensions, and impose penalties. Neither the Executive Committee nor the Appellate Committee of the Khyber Pakhtunkhwa Bar Council, nor for that matter any Bar Association, forms part of this legally mandated disciplinary hierarchy. Their functions are administrative and facilitative, not adjudicatory. Consequently, any action initiated or order passed by such bodies, whether suspending an advocate's licence,

restricting appearance before courts, or otherwise impairing the statutory right to practice, stands outside their conferred authority. Such actions are, therefore, *ultra vires* the Act, devoid of procedural legitimacy, and wholly unsustainable in the eyes of law.

## **STRIKES BY BAR AND THE RIGHT TO FAIR TRIAL**

**25.** Now coming to the issue that whether a Bar Association possesses the authority to issue strike calls or notices directing advocates to abstain from appearing before the courts? and, if so, whether non-compliance with such strike directives can be deemed binding upon advocates who are engaged in the constitutional duty of representing their clients and upholding the fundamental guarantees of fair trial and access to justice? The Constitution of the Islamic Republic of Pakistan, 1973, is a living and organic instrument that systematically defines the relationship between the State and its citizens by conferring rights and prescribing corresponding duties. At the core of this framework lie Articles 4 and 5, which together articulate a foundational constitutional order. Article 4 declares that every citizen and every person within Pakistan is entitled to enjoy the protection of law and to be treated strictly in accordance with law. It prohibits any action detrimental to a person's life, liberty, body,

reputation or property unless sanctioned by law, and equally forbids hindering a person from doing what is not prohibited by law or compelling them to do what the law does not require. Article 5 complements this by imposing loyalty to the State as a basic duty, and obedience to the Constitution and the law as an inviolable obligation upon every citizen.

Read together, Articles 4 and 5 encapsulate what political theorists describe as the “*constitutional or social contract*,” the mutual obligations binding the State and its citizens, ensuring that neither may transgress the limits imposed by law. This framework is further elaborated in Chapter I of Part II, which houses the catalogue of Fundamental Rights (Articles 8–28). Article 7, which precedes this Chapter, defines the “State,” and notably excludes the courts from its ambit so that they remain the ultimate arbiters of constitutional and legal disputes between individuals, institutions, and organs of the State. Against this constitutional backdrop, three rights are directly involved in the present controversy. Article 10A, which guarantees the right to a fair trial in absolute and unqualified terms, forming the bedrock of the justice system. Article 17, which protects freedom of association, albeit subject to reasonable restrictions imposed by law. Article 18, which secures the freedom to enter upon any lawful

trade, business, or profession, including the practice of law, again subject only to such qualifications as may be prescribed by law.

This constitutional scheme provides the theoretical foundation for determining whether strike directives issued by a Bar Association can override an advocate's constitutional obligations in court or impose binding prohibitions upon them.

**26.** From the standpoint of international human rights law, the right to a fair trial belongs to the first generation of civil and political rights—those inherent rights which emerged historically to limit arbitrary power and secure individual autonomy against State interference. These rights, now enshrined in instruments such as the Universal Declaration of Human Rights, 1948 and the International Covenant on Civil and Political Rights, 1966 (ICCPR), impose primarily negative obligations on the State: the duty not to obstruct or hinder the enjoyment of such rights. By contrast, the rights falling within the second generation—such as the freedom of association or the right to work—entail positive obligations, requiring the State to take regulatory or institutional measures to facilitate their exercise. Thus, while all rights are important, the normative hierarchy places first-generation rights—especially the right to a fair trial—at the core of constitutional democracies because they

protect the individual against coercion, arbitrariness, and denial of justice.

**27.** In the constitutional scheme of Pakistan, Article 10A gives absolute, unqualified and non-derogable recognition to the right of fair trial and due process. The framers placed no limitations or exceptions on its exercise, unlike Articles 17 and 18, which expressly permit reasonable restrictions through legislation in the interest of public order, morality, or regulation of a profession. This structural distinction is deliberate: it reflects the jurisprudential understanding that the right to a fair trial cannot be abridged, diluted, or subordinated to collective interests, administrative policies, or professional directives. An indispensable component of the fair trial guarantee is the right of a person to be represented by counsel of his or her choice, a right repeatedly affirmed in international law (Article 14(3)(d) ICCPR) and recognised as an essential element of access to justice. Any interference whether direct or indirect that prevents an advocate from appearing for a client, or that coerces an advocate into abandoning representation, strikes at the very heart of Article 10A.

When viewed against this normative backdrop, Articles 17 (freedom of association) and 18 (freedom of trade, business or profession) assume a clearly conditioned

status. While advocates undoubtedly enjoy the constitutional freedom to form associations and to regulate their professional affairs, such freedoms cannot override or impede the discharge of their constitutional obligation to represent their clients and uphold the guarantees of fair trial and due process. The fair trial right does not merely protect litigants; it simultaneously protects advocates by ensuring that their independent professional role is not curtailed by non-statutory pressures, strike calls, or directives lacking legal authority. Thus, the interplay of Articles 10A, 17 and 18 reinforces a single unambiguous conclusion: whereas associative freedoms and professional regulation may legitimately be subjected to reasonable restrictions, the right to a fair trial and the corresponding right of representation through counsel, admits of no restriction, exception, or collective override.

**28.** Following the exposition of fair-trial guarantees, it is necessary to address directly the legal status of strike calls by Bar Associations and the force, if any, of directives issued to advocates to abstain from appearing in court. Two distinct but inter-related principles govern this question: (i) the absolute constitutional protection of the right to a fair trial and to be dealt with according to law (Article 10-A read with Articles 4 and 5), and

(ii) the associative freedoms of lawyers (Article 17) and their freedom to practice (Article 18). The former gives rise to negative obligations on all persons and bodies not to interfere with the administration of justice; the latter may attract positive obligations on the State to respect collective action but always subject to reasonable restrictions in the public interest. In that constitutional matrix the Act of 1973 and the Rules of 1976 regulate professional conduct: the Act designates who may take disciplinary action (Sections 10, 15, 41–42) and the Rules purport to regulate collective measures by lawyer bodies.

Owing to the above, it is an undisputed and settled position that an advocate who has accepted a brief owes a primary, non-derogable duty to his client and to the administration of justice: he must appear when the matter is called or make suitable alternative arrangements<sup>13</sup>; he may not, by strike or boycott, thwart his client's right to effective representation or cause avoidable adjournments that infringe the accused's or litigant's right to speedy and fair trial. This position is affirmed by the Hon'ble Supreme Court in *Shahbaz Akmal*<sup>14</sup>, wherein it was held that a detained accused must not suffer

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13. Rule 166 of the Rules of 1976: It is the duty of advocates to appear in Court when a matter is called and if it is so possible to make satisfactory alternative arrangements.

14. *Shahbaz Akmal v. The State through Prosecutor General Punjab, Lahore* (2023 SCMR 421).

because his lawyer elects to strike and reminded the profession of the Canons requiring appearance or satisfactory alternatives. Similarly, the High Court of Balochistan in *Kaura Khan*<sup>15</sup>, which categorically held that lawyers have no right to compel courts to adjourn, and that courts are not obliged to wait for counsel who absent themselves pursuant to boycott calls. The worthy High Court further held that it is an inalienable right of every citizen “*to seek justice and to be treated in accordance with law*” guaranteed under Article 4 of the Constitution. Thus, strikes by lawyers “*affect not only public right of access to justice, but also deprive the general public of their fundamental rights*”. On the adverse implications of non-appearance of lawyers before Courts, the worthy Baluchistan High Court held that “*non-appearance of lawyers, has many adverse implications i.e. wastage of time, unjustifiably adjournments, gives rise to backlog and hampering the course of justice.*”

Most importantly, this Court in *Ali Azim Afridi*<sup>16</sup>, held that “*no force or coercion could be employed against lawyers who were not in agreement with the strike call and wanted to discharge their professional duties.*” It was further held that “*non-observance of*

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15. *Kaura Khan v. The State* (2023 MLD 1260).

16. *Ali Azim Afridi v. Federation of Pakistan and others* (PLD 2023 Peshawar 145).

*instructions of Pakistan Bar Council by any Bar Council or Bar Association or any member of Bar/Advocate relating to strike, restraining lawyers from appearance in Courts of law in discharge of their professional obligations considering appearance of lawyers in Courts of law on day of strike as gross professional misconduct, making them liable for disciplinary action under R. 175-B of Pakistan Legal Practitioners and Bar Council Rules, 1976, would offend the provisions of Arts. 4, 8 & 18 of the Constitution".* Lastly, this Court again in a case titled *Shabir v. The State & others* (2025 PHC 4836) held that any directive or instruction by a bar association that "seeks to restrain or inhibit legal representation, particularly for vulnerable complainants or accused persons" amounts to a grave breach of the ethical and constitutional duties incumbent upon the legal profession. It was further observed that "such conduct undermines the principle of equal access to justice, compromises the independence of the legal profession, and violates internationally recognized standards. The right of every individual to be represented by counsel of their own choosing, without intimidation or obstruction, is a foundational component of the right to fair trial."

**29.** The issue of strikes by members of the bar is not only peculiar to our jurisdiction but

has also been comprehensively addressed by the Superior Courts of India. In *Harish Uppal*<sup>17</sup>, the Supreme Court of India held that while lawyers may seek to express grievances under the right to freedom of speech under Article 19(1)(a) of the Indian Constitution, such expression cannot infringe the fundamental right of litigants to a speedy trial under Article 21. The Court emphasized that the right to practice a profession under Article 19(1)(g) does not include the right to abstain from appearing in court in cases where the advocate has accepted a vakalat. Similarly, in *Lt. Col. S.J. Chaudhary*<sup>18</sup> and *K. John Koshv*<sup>19</sup>, it was held that an advocate who accepts a brief has a professional duty to attend trial day-to-day, and courts cannot adjourn cases merely due to a strike or boycott by the Bar. In *Mahabir Prasad Singh*<sup>20</sup>, the Indian Supreme Court held that retention of a client's brief while abstaining from appearance is unprofessional and obstructs judicial processes.

Further, in *Koluttumottil Razak*<sup>21</sup> and *U.P. Sales Tax Service*<sup>22</sup>, the Supreme Court observed that strikes or boycotts by advocates cannot compromise the authority, dignity, and functioning of courts, nor undermine public

17. *Ex-Capt. Harish Uppal v. Union of India* (2003) 2 S.C.C. 45.

18. *Lt. Col. S.J. Chaudhary v. State (Delhi Administration)* (1984) 1 SCC 722

19. *K. John Koshv v. Dr. Tarakeshwar Prasad Shaw* (1998) 8 SCC 624

20. *Mahabir Prasad Singh v. Jacks Aviation Pvt. Ltd.* (1999) 1 SCC 37

21. *Koluttumottil Razak v. State of Kerala* (2000) 4 SCC 465

22. *U.P. Sales Tax Service Association v. Taxation Bar Association* (1995) 5 SCC 716

confidence in the administration of justice. The Court outlined that any conduct which prevents the courts from discharging their quasi-judicial functions, or casts aspersions on judicial officers' integrity, threatens the rule of law and judicial independence, and must be curtailed. Peaceful protests outside court premises, dharnas, or symbolic demonstrations were acknowledged as permissible forms of expression, whereas strikes that obstruct litigants' access to justice are incompatible with professional obligations.

**30.** In view of the foregoing discussion, it is abundantly clear that any strike notices or directives issued by a Bar Association, calling upon advocates to abstain from appearing in courts, are without legal authority, constitutionally impermissible, and void of any binding force. The constitutional guarantees enshrined in Articles 4, 8, 10A, 17, and 18 of the Constitution of the Islamic Republic of Pakistan, 1973, establish a clear hierarchy wherein the right of every citizen to a fair trial and to be dealt with in accordance with law is paramount and non-derogable. While advocates possess associative and professional freedoms under Articles 17 and 18, these rights are expressly subject to reasonable restrictions and can never override the core constitutional obligation to uphold the rule of law and to secure access to justice for

litigants. The fundamental duty of an advocate who has accepted a brief is to represent their client diligently and without interruption; any attempt to subordinate this duty to a collective strike undermines the very essence of the right to fair trial, delays judicial processes, and erodes public confidence in the administration of justice. The case law discussed earlier uniformly affirm that strikes or boycotts by lawyers, which obstruct access to courts, violate professional ethics and cannot be condoned under any circumstances. Consequently, any Bar-issued strike directive seeking to restrain advocates from performing their professional duties on grounds of protest or association is illegal, ultra vires, and unenforceable; the constitutional mandate to ensure fair trial, protection under the law, and uninterrupted legal representation must prevail as the highest guiding principle, and the duty of an advocate to their client stands supreme over all such extraneous directives.

**31.** Before parting with this judgment, it is imperative to record a matter of grave and recurring concern. As a routine occurrence before this Court, and before hundreds of civil, criminal, family, and special courts across the province, thousands of cases stand adjourned solely on account of strikes called by lawyers. Such adjournments not only amount to an abuse of the process of law and obstruct the

constitutional guarantees of access to justice but also inflict a staggering financial burden upon the public exchequer. According to this Court’s Statement of Budget for the year 2024–2025, the daily operational cost of the Peshawar High Court and its Benches alone is approximately PKR 14.986 million; the daily expenditure of the Sessions Courts throughout the Province is PKR 19.628 million; and that of the Civil Courts across the Province is PKR 23.041 million. The cumulative direct operational cost of the judicial machinery that goes to waste on each day of strike thus exceeds PKR 57 million, exclusive of the substantial development budget.

These figures do not account for the cascading losses borne by other institutions compelled to remain operational despite the paralysis of court work: the Advocate General’s Office at the Principal Seat and Benches, hundreds of prosecutors across the province, District Attorneys and law officers attached to every court, police personnel deployed for court security in more than thirty-five districts, and hundreds of official witnesses who travel daily to depose but are turned back unheard. Above all, the litigant public—many of whom journey from far-flung areas at considerable personal expense—arrive only to learn that their matters will not proceed. The human cost of such disruption is

immeasurable; the financial cost is shocking; and the systemic cost is alarming. In an era where judiciaries across the world are transitioning toward digital systems and AI-enabled models for efficient justice delivery, the recurring suspension of court proceedings on the pretext of strikes represents a regressive and unsustainable practice.

To protest within the limits of law is a recognized right and may be exercised through dignified means such as wearing black armbands, displaying banners, or convening peaceful assemblies. But halting the functioning of courts—thereby jeopardizing thousands of pending claims and draining public resources—is neither lawful nor tolerable. Consequently, all courts across Khyber Pakhtunkhwa shall refrain from adjourning cases merely because lawyers are on strike and shall proceed with judicial business uninterrupted. Where counsel fail to appear, appropriate legal and procedural measures may be adopted to ensure the orderly conduct of proceedings. The Additional Registrar (Judicial) is directed to circulate this judgment to all courts of the province for strict compliance and guidance.

**32.** These are the detail reasons for our short order dated 15.10.2025, reproduced below:

For detailed reasons to be recorded later and subject to what is to be held by way of

augmentation, amplification or clarification, Writ Petition No.7516-P/2025 (Shabbir Hussain Vs Pakistan Bar Council through its Secretary, etc), Writ Petition No.7088-P/2025 (Shabbir Hussain Vs KP Bar Council through its Chairman etc), Writ Petition No.7125-P/2025 (Ali Azim Afridi Advocate Versus KP Bar Council through its Chairman, etc) and Writ Petition No.7517-P/2025 (Ali Azim Afridi Advocate Versus Advocate General, Khyber Pakhtunkhwa, etc) are allowed by this Court while assuming and exercising jurisdiction under sub clause (c) of Clause 1 and Clause 2 of Article 199 of Constitution of Islamic Republic of Pakistan 1973, to the following effect:-

- A. *Petitioner in Writ Petition No.7516-P/2025 and Writ Petition No.7088-P/2025, is declared to have been entitled to appear and conduct cases as a legal practitioner after being enrolled as a legal practitioner, under Legal Practitioners and Bar Councils Act, 1973 and rules framed thereunder. Any act on part of the respondents from preventing petitioner from appearance before this Court or a Court subordinate to it or any other Court (established under the Constitution of the Islamic Republic of Pakistan 1973 or any other law) would be illegal, unlawful and resultantly, null void and ineffective upon rights of the petitioner. The impugned decision of appeal committee of Pakistan Bar Council dated 8<sup>th</sup> October 2025 is declared to have been passed without any lawful authority and therefore null and void. Petitioner could neither be restrained from entry to the premises of Courts or appearing before Courts of law (if duly authorized by the person on whose behalf he puts appearance) under the garb of any resolution passed by the respondents. Any such act would be violative of fundamental rights of petitioner guaranteed under Article 4, Article 5, Article 10, Article 14, Article 15, Article 18, Article 19 and Article 26 of the Constitution of Islamic Republic of Pakistan 1973. Similarly, any such act would also be violative of fundamental rights of those persons, who have engaged petitioner as counsel for their legal representations, vested in them by Article 10-A of the Constitution of Islamic Republic of Pakistan 1973.*

B. Petitioner in Writ Petition No.7125-P/2025 and Writ Petition No.7517-P/2025 is also declared entitled to practice his profession as lawyer enrolled under the Legal Practitioners and Bar Council Act 1973 and rules framed thereunder. Impugned decision of Executive Committee of Pakistan Bar Council dated 8<sup>th</sup> October 2025, (where under his license has been suspended under Rule 15 (8) of Rules 2010, for appearing in the Courts while strike had allegedly been called by Khyber Pakhtunkhwa Bar Council) is also declared to have been made without any lawful authority vested in Executive Committee of the KP Bar Council. Same is also declared to have been null, void, non est and of no legal effect. Petitioner could not be obstructed or otherwise prevented from representing any person, who appoints him as a counsel for pleading his cases or appearance before this Court or any other Court established by law or constitution. Any such act of respondents would be violative of the Article 4, Article 5, Article 10, Article 14, Article 15, Article 18, Article 19 and Article 26 of the Constitution of Islamic Republic of Pakistan 1973. Similarly, any such act would also be violative of fundamental rights of those persons, who have engaged the petitioner as counsel for their legal representations, vested in them by Article 10-A of the Constitution of Islamic Republic of Pakistan 1973.

Sd/-

**J U D G E**

**J U D G E**

Date of hearing	Date of announcement
15.10.2025	15.10.2025
DB: Honorable Justice Syed Arshad Ali & Honorable Justice Wiqar Ahmad	
Mahmood Shah (SSS)	