

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

W.P. No.490/2014

Election Commission of Pakistan
Versus
Federal Ombudsman, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	23-01-2020	Mr Nauman Munir Paracha, Advocate for petitioner.

Through this consolidated order, this Court will decide the instant petition alongwith the connected petition i.e. W.P. No.42294/2015. Through these petitions, the Election Commission of Pakistan has assailed proceedings initiated by the learned Wafaqi Mohtasib (*hereinafter referred to as the 'Ombudsman'*).

2. The learned counsel has argued that the jurisdiction of the learned Ombudsman is confined to the expression 'Agency' defined in sub section (1) of section 2 of the Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order, 1983 (*hereinafter referred to as the 'Order of 1983'*). He has

further contended that the Election Commission of Pakistan has been established under Article 213 of the Constitution of the Islamic Republic of Pakistan, 1973 (*hereinafter referred to as the '**Constitution**'*) and is, therefore, not amenable to the jurisdiction of the learned Ombudsman under the Order of 1983.

3. The learned counsel has been heard and the record perused with his able assistance.

4. A plain reading of the Order of 1983 shows that the jurisdiction of the learned Ombudsman is confined to the mal-administration relating to an Agency. The said expression has been defined in sub-section (1) of section 2 as follows.-

"Agency" means a Ministry, Division, Department, Commission or office of the Federal Government or statutory body, corporation or other institution established or controlled by the Federal Government but does not include the Supreme Court, the

Supreme Judicial Council, the Federal Shariat Court or a High Court.

5. A plain reading of the above provision unambiguously manifests that the Election Commission of Pakistan, which has been established under the Constitution, does not fall within the ambit of the expression 'Agency'. The Election Commission of Pakistan is not a Ministry, Division, Department or Commission of the Federal Government. Likewise it is not a statutory body, corporation or other institution established or controlled by the Federal Government. It is, therefore, not an "Agency" for the purposes of the Order of 1983. The jurisdiction of the learned Ombudsman is confined to complaints regarding mal-administration of an entity which falls within the ambit of the expression 'Agency' defined in the Order of 1983. The Election Commission of Pakistan is, therefore, not amenable to the jurisdiction of the learned Ombudsman under the Order of 1983.

6. For the above reasons, both the petitions are allowed and consequently the proceedings before the learned Ombudsman/are hereby declared as bereft of jurisdiction.

(CHIEF JUSTICE)

Luqman Khan/*