

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial, CJ
Mr. Justice Ijaz ul Ahsan
Mr. Justice Munib Akhtar

Constitution Petition Nos.21 to 23 of 2023.

(Challenging *vires* of the Supreme Court (Review of Judgments and Orders) Act, 2023).

Ghulam Mohiuddin

In Const.P.21/2023

Zaman Khan Vardag

In Const.P.22/2023

The Jurists Foundation (Regd.) through its
Chairperson/CEO, Advocate Supreme
Court of Pakistan, Islamabad

In Const.P.23/2023

...Petitioner(s)

Versus

Federation of Pakistan through Ministry of
Law and Justice and another

In Const.P.21/2023

The Federation of Pakistan, etc

In Const.P.22/2023

Federation of Pakistan through Secretary,
M/o Law & Justice, Islamabad and another

In Const.P.23/2023

...Respondent(s)

For the Petitioner(s) : In person (In Const.P.21/2023)

(Via Video link from Karachi)

In person (In Const.P.22/2023)

(Via Video link from Lahore)

Nemo (In Const.P.23/2023)

For Respondent(s) : Mr. Mansoor Usman Awan,
Attorney General for Pakistan.

Date of hearing : 07.06.2023

ORDER

We have before us three Constitution Petitions challenging the *vires* of the Supreme Court (Review of Judgements and Orders) Act, 2023 ("**impugned Act**"). The primary contention of the petitioners is that the enlargement of the scope of the review jurisdiction of the Court in matters arising from proceedings under Article 184(3) of the Constitution is made available on all grounds permitted in an appeal. The conferment of appellate powers in the review jurisdiction is tantamount to converting the remedy of review into an appeal. Such merger of jurisdictions eliminates the distinction between review and appeal jurisdictions created by Article 188 and Article 185 of the Constitution which is unconstitutional and void. The impugned Act amounts to colourable legislation to effectuate a result that would require a constitutional amendment. Further urged that the impugned Act purports the same object and effect as the Supreme Court (Practice and Procedure) Act, 2023 which is already under challenge before the Court for providing the remedy of appeal that transgresses the limits imposed in Entry 55 of the Federal Legislative List (ref: Schedule IV to the Constitution). The effect of the said law has been suspended by a Larger Bench of this Court vide order dated 13.04.2023.

2. Issue notice to the respondents. Notice shall also be issued to the Attorney General for Pakistan under Order

XXVIA of the CPC, *inter alia*, on the above noted constitutional questions raised for determination in these petitions.

3. Syed Ali Zafar, learned ASC who is representing the respondents in the review petition (C.R.P.No.17/2023), the learned Attorney General the learned counsel for the review petitioner in CRP No. 17 of 2023, Election Commission of Pakistan, the two petitioners in person all of whom have assisted the Court today, agree that the aforementioned pending review petition ought to be decided expeditiously as it involves important constitutional points about the holding of General Elections and in that context, the manner in which the constitutional obligations envisaged in Article 224(2) read with Article 218(3) of the Constitution have to be discharged.

4. We therefore presently direct both matters to be listed together (Constitution Petition Nos.21 to 23/2023 & C.R.P.No.17/2023) on **13.06.2023** when the main effort would be to proceed in a manner that the review petition is decided expeditiously.