

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ
Mr. Justice Javed Iqbal
Mr. Justice Raja Fayyaz Ahmed
Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Ghulam Rabbani

SUO MOTU CASE NO. 24 of 2010

[Regarding Corruption in Hajj Arrangements in 2010]

HUMAN RIGHTS CASES NO.57701-P, 57719-G, 57754-P, 58152-P, 59036-S, 59060-P, 54187-P & 58118-K of 2010

[Applications by Abdul Rasheed & others]

On Court notice:

Moulvi Anwar-ul-Haq
Attorney General for Pakistan
Dr. Salahuddin Mengal, A.G. Balochistan
Mr. Asadullah Chamkani, A.G. KPK
Syed Arshad Hussain Shah, Addl. AG, KPK
Mr. Ghulam Dastgir, Chief Secretary KPK
Khwaja Haris Ahmed, A.G. Punjab
Ch. Khadim Hussain Qaiser, Addl. AG Punjab
Mr. Nasir Khosa, Chief Secretary, Punjab
Mr. Abdul Fateh Malik, A. G. Sindh
Raja Abdul Ghafoor, AOR
Mr. Ghulam Nabi Shah, Secretary Law
Mr. Iqbal Ahmed Durrani, Secy. S&G, Sindh
Mr. Muhammad Tayyab, Addl. Secy. S&GAD

Mr. Tariq Pirzada, Commissioner, ICT

For Members of Committee of Parliamentarians: *Nemo.*

Former Minister S&T: *Nemo.*

For former Minister	Mr. Khurram Latif Khosa, ASC
Religious Affairs:	Mr. Mehmood A. Sheikh, AOR

For M/o Religious Affairs: Mr. Shahzad Ahmed, JS Admn.
(on behalf of Secretary)

For former Secretary Religious Affairs: *Nemo.*

For Establishment Division: Mr. Abdul Hafeez Pirzada, Sr. ASC
Mr. Abdur Rauf Chaudhry, Estt. Secretary

Mr. Khalid Akhlaq Gillani, Addl. Secy.
Mr. M. Ijaz Ghani, Dy. Secy.
Mr. Muhammad Arshad, Dy. Secy.

For NAB: Mr. Fauzi Zafar, ADPGA

For FIA: Syed Jawed Ali Bukhari, Addl. DG
Incharge Investigation
Mr. Hussain Asghar, Director
Mr. M. Azam Khan, Director (Law)
Mr. Khalid Rasool, Dy. Director, FIA
Mr. Khalid Naeem, AD, FIA
Mr. Niamat Ali, AD, FIA
Mr. Liaqat Ali, S.I. Police with
Rao Shakeel, former DG Hajj (in custody)

In C.M.A No.218/2011: Mr. M. Ikram Chaudhry, ASC

For Tour Operators: *Nemo.*

Date of hearing: 11.03.2011

ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, CJ – Mr. Jawed

Bukhari, Additional Director General, FIA has submitted report and stated that significant progress has been made in the investigation of the case on the basis of which further incriminating material is being collected to ascertain the involvement of the persons in the commission of offence. However, it has been pointed out to him that he has to conduct investigation independently and he should make all out efforts to bring the culprits to book, whosoever they may be, and at the same time pace of the investigation should also be accelerated by collecting evidence as early as possible.

2. In response to notice, the Advocates General of all the Provinces have submitted details of the persons who have been re-employed on contract after superannuation. They are directed to deliver copy of the same to the learned Attorney General for Pakistan who shall assist the Court. The Commissioner ICT has stated that no one is performing duties on contract in the ICT.

3. Mr. Abdul Hafeez Pirzada, learned Sr. ASC stated that on having received notice along with the order dated 07.03.2011, it has become necessary to submit reply on behalf of the Federation, as according to his version, the scope of re-employment on contract basis has been enlarged by applying Article 9 of the Constitution, which deals with a Fundamental Right of a person. We pointed out to him that the Government of Pakistan was required initially to look into the cases of the officers of the Disciplinary Forces, like Police and FIA who have been re-employed on contract for different periods after superannuation, including DG FIA. But despite repeated observations of this Court except removing/terminating the contract of some of the members of the Disciplinary Forces (Police etc.) including Provincial Police Officer Sindh and others, no further progress has been made. Mr. Wasim Ahmed, DG FIA is still continuing against the same post although, without prejudice to his case on merits, this Court has made observations against him from time to time regarding poor investigation of the case. While other members of the Disciplinary Forces have been removed, his retention, *prima facie*, seems to be discriminatory, i.e. against the provisions of Article 25 of the Constitution because if all of them were serving on contract basis and according to the stand of the Federal Government, they were performing duties to the satisfaction, their services have been terminated but DG FIA, who is also a similarly placed person is continuing in office. He stated that according to the instructions conveyed to him by the Secretary Establishment, who is one of the members of the Committee constituted by the competent authority to examine such cases, his services are required in connection with some national security matters. When we inquired from Secretary

Establishment about the basis of the same, he stated that the Secretary Interior had produced some material in the meeting, which was with him, therefore, Secretary Interior was asked to produce the same before the Court, who produced a document and claimed it to be a classified one. We have seen the document and returned the same by putting signature of the Court Associate on one of the copies thereof.

4. The learned counsel further stated that today case may be adjourned, enabling him to have some time to file reply and make submission in response to the order dated 07.03.2011 because 47 other employees whose list has been filed are working on contract basis in 22 Ministries whereas in pursuance of order dated 07.03.2011, no information has been received so far from the remaining 24 Ministries and in the meanwhile the Secretary Establishment shall collect such information from them as well.

5. In view of the request made by the learned counsel, case is postponed to 16.03.2011. Notice in the meanwhile be also issued to Attorney General for Pakistan as the question of interpretation of the constitutional provision in this case may be involved.

IFTIKHAR MUHAMMAD CHAUDHRY, CJ

JAVED IQBAL, J.

RAJA FAYYAZ AHMED, J.

ASIF SAEED KHAN KHOSA, J.

GHULAM RABBANI, J.

ISLAMABAD,
March 11, 2011