

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT
Mr. Justice Sh. Riaz Ahmed
Mr. Justice Munir A. Sheikh
Mr. Justice Nazim Hussain Siddiqui
Mr. Justice Iftikhar Muhammad Chaudhry
Mr. Justice Qazi Muhammad Farooq

CONSTITUTION PETITION NO. 38 OF 2002, 2, 3, 4, 7, 8, 11, 12, 13, 14, 18, 19, 20, 23 & 24 OF 2003

Const.P.38/2002	Javed Jabbar Vs. Federation of Pakistan & another	Mr. M.A. Siddiqui, ASC Mr. M.A. Zaidi, AOR
Const.P.2/2003	Rana Tanveer Husain Vs. Federation of Pakistan & others	Syed Hamid Ali Shah, ASC
Const.P.3/2003	Malik Umar Aslam Vs. Federation of Pakistan & another	Syed Hamid Ali Shah, ASC
Const.P.4/2003	Asfnad Yar Wali Khan Vs. Federation of Pakistan & others	Qazi Muhammad Anwar, Sr.ASC Mr. Ejaz Muhammad Khan, AOR
Const.P.7/2003	Mian Abdul Waheed Vs. Federation of Pakistan & others	Sardar Liaquat Ali, ASC Mr. Anwar H. Mir, AOR
Const.P.8/2003	Mst. Mushtari Begum Vs. Federation of Pakistan & others	Raja M. Ibrahim Satti, ASC Mr. Ejaz Muhammad Khan, AOR
Const.P.11/2003	Muhammad Ajmal Khan Vs. Federation of Pakistan & others	Mr. S.M. Abdul Wahab, ASC Mr. M.A. Zaidi, AOR
Const.P.12/2003	Muhammad Ehsanullah, Advocate Vs. Federation of Pakistan & others	In Person
Const.P.13/2003	Muhammad Ayub Vs. Federation of Pakistan & others	Mr. Muhammad Asif, ASC
Const.P.14/2003	Syed Amjad Hussain Shah Vs. Federation of Pakistan & others	Mr. M. Bilal, Sr. ASC Mr. A.A. Siddiqui, AOR
Const.P.18/2003	Rashid Ahmed Vs. Federation of Pakistan & others	Raja M. Ibrahim Satti, ASC Mr. Ejaz Muhammad Khan, AOR
Const.P.19/2003	Shoukat Ullah Vs. Federation of Pakistan & others	Raja M. Ibrahim Satti, ASC Mr. Ejaz Muhammad Khan, AOR
Const.P.20/2003	Muhammad Saleh Shah Vs. Federation of Pakistan & others	Syed Zulifqar Abbas Naqvi, ASC Mr. M.A. Zaidi, AOR
Const.P.23/2003	Nawab Ayaz Khan Jomezai Vs. Federation of Pakistan & others	Mr. S. Iftikhar H. Gillani, ASC Mr. M.S. Khattak, AOR
Const.P.24/2003	Syed Jalal Mehmood Vs. Federation of Pakistan & other	Sahibzada Ahmed Raza Qassuri, Sr. ASC
	For the respondents	Mr. Makhdoom Ali Khan Attorney General for Pakistan Assisted by Mr. Shahid Karim & Mr. Khurram M. Hashmi Advocate High Court Mr. Mehr Khan Malik, AOR
	On Court notice	Mr. Shabbar Raza Rizvi, A.G. Punjab Mr. Jehanzab Rahi, A.G. NWFP.
	Date of hearing	6 th & 7 th of February, 2003

SHORT ORDER

SH. RIAZ AHMED, CJ. Through this common short order, we propose to dispose of the captioned petitions which were filed under Article 184(3) of the Constitution of Islamic Republic of Pakistan, assailing insertion of Article 8 AA in the Conduct of General Elections Order 2002 (Chief Executive Order No. 7 of 2002) whereby it was enacted that a person who had been defeated in the elections of National and Provincial Assemblies held in October 2002, shall be disqualified to contest the election for a seat in the Senate. After hearing learned counsel representing the petitioners in these petitions and Mr. Makhdoom Ali Khan, the learned Attorney General for Pakistan, and for reasons to be incorporated subsequently through a detailed order, we hold that Article 8-AA *ibid*, is discriminatory in nature and as such violative of Article 25 of the Constitution of Islamic Republic of Pakistan. We further hold that disqualification attributable to defeat in consequence of lawful act of contesting election of the National and Provincial Assemblies should have been provided in the original order itself, being impugned herein, so that, the affected persons should have an opportunity to avoid to suffer such disqualification.

Announced in open Court at Lahore on 10-02-2003.