

**IN THE SUPREME COURT OF PAKISTAN**  
(Original Jurisdiction)

Present:

Mr. Justice Jawwad S. Khawaja  
Mr. Justice Khilji Arif Hussain

**Suo Motu Case No.5 of 2012**

(Suo Motu Action regarding allegation of business deal between Malik Riaz Hussain and Dr. Arsalan Iftikhar attempting to influence the judicial process)

On Court Notice:	Mr. Irfan Qadir, Attorney General for Pakistan
For Dr. Arsalan Iftikhar:	Sardar M. Ishaq Khan, Sr. ASC Mr. Mehr Khan Malik, AOR with Dr. Arsalan Iftikhar
For Malik Riaz Hussain:	Mr. Zahid Hussain Bokhari, ASC Raja Abdul Ghafoor, AOR
For Ali Ahmad Riaz Malik:	Syed Ali Zafar, ASC
For Company Secy/BTPL:	Dr. Amjad Hussain Bukhari, ASC Mr. Arshad Ali Chaudhry, AOR
Date of Hearing :	14.6.2012

**JUDGMENT**

**Jawwad S. Khawaja, J.** The fateful events of 9<sup>th</sup> March, 2007 are now a part of our collective consciousness. Five years later, this Court has found itself beleaguered by the relics of a past that everyone knows, or certainly should know, as the same are now indelibly etched in our history. But perhaps the ghosts of the past do not so easily depart. In this case, the Court has found it necessary for the protection of the public interest to ascertain some facts and to seek the truth in a matter of the highest national importance, which has appeared recently in the public domain, through the auspices of the media viz. 1s1.3

2. Three years ago, in another case of great public importance, we wrote: *"the past three years in the history of Pakistan have been momentous, and can be accorded the same historical significance as the events of 1947 when the country was created and those of 1971 when it was dismembered. It is with this sense of the nation's past that we find ourselves called upon to understand and play the role envisaged for the Supreme Court by the Constitution. The Court has endeavored to uphold the Constitution and has stood up to unconstitutional forces bent upon undermining it."* Dr. Mobashir Hassan & others v. Federation of Pakistan & others (PLD 2010 SC 265): It has been another three years since then and we can say with confidence that Pakistan's constitutional journey has gone not one step backwards. Today, as ever before, the Court has endeavored to uphold the Constitution and has stood up to unconstitutional forces bent upon undermining it.

#### **FACTUAL BACKGROUND:**

3. This Suo Moto case was initiated on June 6, 2012 in response to a series of talk shows aired on the electronic media in the period between June 3 and June 6. These talk shows contained statements and insinuations which pertained to certain illegal acts allegedly done by certain named individuals. These statements and innuendos clearly tended to cast aspersions upon the independence and integrity of Pakistan's superior judiciary, particularly that of the Supreme Court of Pakistan and its Chief Justice. In the wee hours of June 6, a Suo Moto notice was issued, amongst others, to a businessman Malik Riaz Hussain and to the son of the Chief Justice namely, Dr. Arsalan Iftikhar, for the same day. On June 6 and June 7, two of the talk show hosts in whose programmes the allegations surfaced were called to the Court to record their statements. They gave detailed statements in open Court and also submitted signed copies of the same. For further details of the facts, it is best to refer to their written submissions. The statement of Mr. Kamran Khan, a journalist with a media group brought some material details of this matter to the Court's notice. We consider it necessary to quote the relevant extracts of that statement, taken from the signed copy, placed on the Court's record. Kamran Khan said:

*"I would like to state that my attention was first drawn to this subject in the second week of May [2012] when I received an anonymous phone call claiming that Dr. Arsalan Iftikhar son of the Chief Justice of Pakistan is allegedly using his position to extract money from wealthy people whose cases are pending before the Supreme Court of Pakistan.*

*A separate phone caller, two days later, said that Dr Arsalan Iftikhar had allegedly blackmailed real estate tycoon Malik Riaz Hussain whose case[s] were pending before the Supreme Court. I was also told that Malik Riaz Hussain has also gathered evidence to prove that he has been targeted for blackmail allegedly by Dr Arsalan Iftikhar....*

*... I contacted Malik Riaz Sb with this explicit intention and met him in Karachi in the third week of May where he basically confirmed the content of the information and after a lot of persuasion agreed to show me the documentary evidence... At a subsequent meeting Malik Riaz Sb showed me the dossiers that carry documents pertaining to Dr Arsalan Iftikhar's summer vacation trips to London over the past three years. There were tenancy agreements signed by Dr Arsalan Iftikhar for five star accomadations [sic.] in Central London and receipts / invoices showed that the payments were made from the accounts/ credit cards controlled by Malik Riaz Sb or his family members in London.*

*There were documents that also showed that travel and stay arrangements for Dr Arsalan Iftikhar and a female accomplice ( I don't remember the name) in Monte Carlo were made from the accounts controlled by Mr Malik Riaz or his family members.*

*According to these documents most payments including those of several shoppings made by Dr Arsalan Iftikhar and other family members at pricey London stores were also made through credit cards owned by Malik Sb's daughter and son in London...*

*... My lordships I left that meeting with Malik Riaz Sb with an impression that either he's hell of a con, a forger par excellence or God forbid the son of the Chief Justice of Pakistan has sold the name of his great father...."*

**(Statement of Mr. Kamran Khan, Anchor, Executive Director, Geo News, submitted to the Supreme Court on June 07, 2012)**

Mr. Hamid Mir, another journalist and TV personality, gave the following statement:

*"On the eve of 31<sup>st</sup> May, I called Malik Riaz Sahib on phone and expressed my desire to meet him. [That evening] I met him at his residence in Islamabad, around 9:30 pm. His son Ali was also present... Malik Riaz asked someone to bring in a file which included a set of documents. All the documents were photocopies. And according to Malik Riaz Sahib, [these documents showed that] Arsalan Iftikhar had taken a lot of money from his son and his son-in-law. Malik Riaz said that he also has a number of [incriminating] videos but he did not show me any such video..."*

**(Statement of Mr. Hamid Mir, Executive Editor, Geo TV, submitted to the Supreme Court on June 6, 2012,)**

Mr. Shaheen Sehbai, Group Editor of the 'News' also submitted his affidavit on June 7 giving some particulars of his interview on an Internet based program called "Washington Beat", viewable on YouTube.

4. Immediately following the initiation of this suo moto case, similar statements also appeared from a number of other prominent media personalities. All of them referred to certain meetings between Malik Riaz Hussain and some journalists. For instance, after the suo moto notice, in an op-ed written in Daily Express (Urdu) on 08.06.12, titled "Kya Chief Justice bhi qusoor war haen?" a columnist Mr. Javed Chaudhry retold the details of a similar meeting between him and Malik Riaz on the eve of June 2, 2012 where he apparently was shown the same "evidence". A story filed by Mr. Ansar Abbasi, in The News, on Friday June 08.06.12, titled "Got no evidence against CJ: Malik Riaz" also records the details of numerous similar encounters with Malik Riaz. Mr. Ansar Abbasi writes:

*"This correspondent had five sittings with Malik Riaz during the last few weeks after the business tycoon invited this scribe to his residence to share the documentary evidence against the alleged corruption of CJ's son Dr Arsalan Iftikhar."*

5. It was on the basis of wide spread and disparaging media coverage that the Court felt it necessary, in its order dated 7.6.2012 to require the various implicated parties to file their responses in the form of Concise Statements. On 11.6.2012 Dr. Arsalan filed his Concise Statement. Mr. Zahid Bokhari, learned counsel for Malik Riaz Hussain, submitted that his client was unable to file his Concise Statement because of health reasons. Although the Court found this submission to be untenable, he was granted an extension of time in the interest of justice and even though learned counsel for Dr. Arsalan objected to such extension on the ground that Malik Riaz was deliberately delaying matters. On 12.06.08, Malik Riaz Hussain filed his Concise Statement along with a set of documents.

**ANALYSIS:**

6. We do not deem it necessary to reproduce the complete contents of the Concise Statements of both parties. It will suffice to note that in his Concise Statement, Malik Riaz made two basic submissions firstly, that the suo moto proceeding was not

maintainable. His argument was that there was no issue of public importance involved and that in any event whatever storm had been unleashed would die down in the next few days. We find this submission to be quite extraordinary and divorced from reality in view of the media frenzy, of which we must take judicial notice. The suo moto notice was absolutely necessary to stem the uninformed opinion and comment feeding such media frenzy and to ensure the right of the citizens to correct information on a matter of the gravest national importance in a transparent manner. Learned Sr. ASC for Malik Riaz also submitted that the Supreme Court is neither an investigative agency nor a trial court and should not conduct a trial on this matter. This we have already stated in our earlier order of 7.6.2012 (considered below).

7. It is established by precedent that this Court, particularly in the exercise of its original jurisdiction under Article 184 (3) of the Constitution, is entitled to use inquisitorial powers. However, generally, the Court refrains from the exercise of this extra-ordinary power. We have taken cognizance of this matter, suo moto, for a specific object. We need to exercise such powers only as are necessary to achieve that object. The Concise Statements of the parties are before us. And now we can take note of such material particulars in the Concise Statements of the parties, which have a direct bearing on the object of this suo moto case. In so far as other questions, be these legal or factual in nature, their determination may be left to a competent Court or forum.

8. The parts of the Concise Statements which have a bearing on the outcome of this suo moto case, are those which pertain directly to the independence and integrity of the judiciary. In his Concise Statement, Malik Riaz Hussain confirmed that he met with a number of journalists and showed them 'documentary evidence' of payments made to Dr. Arsalan, in exchange for promises on his part to gain favours for Malik Riaz from the Supreme Court. However, Malik Riaz also stated, clearly and unequivocally that, till today, no favour has actually been shown to him by this Court. In his Concise Statement he says *"it is categorically stated that I have all the regards and respect for the esteemed Supreme Court of Pakistan and its Honorable judges including the Honorable Chief Justice of Pakistan..."* [And] **I did not get any relief whatsoever in the Suo-Moto/Human Rights cases pending before August Court** *contrary to the assurances and promises made by [Dr. Arsalan].* During the hearing, Malik Riaz was repeatedly asked by us to confirm whether he stood by this

statement given by him in writing. Accordingly, he did so in the most categorical and unambiguous terms through his counsel.

9. To a large extent, this statement settles the question of public importance. If the man who is accusing Dr. Arsalan of involvement in wrongdoing, himself concedes that the Court, as an institution or its judges have never been involved in any such act, then the aspersion cast on the Court's reputation stands cleared. Any doubts which may have arisen in the mind of the public can now be safely put to rest since the person who is supposed to have created these doubts with the help of certain segments of the media, has made an admission on record and cleared the situation.

10. Another aspect of the case also becomes clear from the above. Malik Riaz, going by his own admission, does not appear to be averse to bribing or attempting to bribe high functionaries of the State or other persons he considers to be influential. We can only try to understand the motivation behind his strange conduct of doling out huge sums of money over a period starting from 2009 without ever getting any return for the same. A clue, however, is to be found in his Concise Statement wherein Malik Riaz has said that Dr. Arsalan has not only cheated him and his son-in-law but has also committed fraud, extortion and other offences under the Prevention of Corruption Act and under the National Accountability Ordinance. The inference, if any, to be drawn is not in relation to the Court; it is to be drawn in relation to Malik Riaz himself. It appears that Malik Riaz may not have encountered failure in the past in receiving favours against payments of illegal gratification. He may, therefore, in his own mind, have considered the lack of any relief or favourable orders from the Supreme Court as simply an attempt to extort money from him. With such thinking, it may not have crossed his mind and he may actually have missed the reality that the Court was only doing its job in accordance with the law and the Constitution, dealing with cases solely on the basis of merit. His logic, perhaps not so strange to him, can be best explained by referring to the wisdom of the great Hafez, sage of Shiraz, who said:- **فکرِ ہر کس بقدرِ ہمتِ اوست** .

#### **A CURSORY LOOK ON THE DOCUMENTARY EVIDENCE:**

11. We have also briefly examined the documents placed on record by Malik Riaz and Dr. Arsalan. These documents pertain mainly to the record of a flow of money and

other valuables, alleged to have passed between Mr. Salman Ali Khan (son-in-law of Malik Riaz) and Dr. Arsalan. If indeed this flow did take place, and if it was done in exchange for promises of illegal favours, then the individuals involved must be tried and punished in accordance with the laws of Pakistan. We may just state for the record that no affidavit or statement of Salman Ali Khan, whether confirming or denying any transactions between him and Dr. Arsalan or their relationship *inter se*, have been filed by Malik Riaz. Nonetheless attempts by individuals to obstruct the course of justice are indeed a matter of serious and grave concern and imperil the reputation of the justice system at large. This is why such exchange of bribes with the attempt, even a failed one, to influence the course of justice, has been declared illegal and punishable under various laws. If proven guilty by a court of competent jurisdiction, the parties involved are liable to be punished. These laws may include section 163 (illegal gratification using personal influence over public servant), section 383 (extortion) section 415 and section 420 (cheating), of the PPC and section 9 of the National Accountability Ordinance, 1999. We need not delve deeply into the contou

*present, the exercise being undertaken by us is to ensure that the truth ... be uncovered."*

Indeed, it is the cornerstone of the administration of justice in this country that all people, whether they appear to us innocent or guilty, are entitled to the due process of law and are to be deemed innocent until proven guilty after a fair trial. Malik Riaz, Dr. Arsalan or Salman Ali Khan are thus entitled to due process and fair trial. Article 10A of the Constitution has now codified this principle of due process in the form of a fundamental right. It says: *"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."*

13. Therefore, through this suo moto action, it is not the intention to pronounce final judgment on the guilt or innocence of those allegedly involved. Our purpose is to take cognizance of this matter so that the people's right to have access to information about matters of public importance can be vindicated. This object, in our opinion, has been achieved in these proceedings. The matter of public importance in this case was the aspersion cast on the independence and integrity of the superior judiciary of this country. The above-quoted statement of Malik Riaz, given in open Court, and put in writing, should clear all doubts on this score. He has admitted in writing that the judiciary has been, and remains, ill-disposed to the grant of favours, despite his own efforts to the contrary. To put it simply, even a resourceful person such as Malik Riaz has been forced to concede failure in his attempt to compromise the integrity and independence of the judiciary, despite the alleged payment of 34 crore rupees. This demonstrates that the gains won by the people's struggle since 2007 are not yet frittered away.

#### **ROLE OF MEDIA:**

14. The series of events which comprise the run-up to this suo moto case also raise concerns about issues of media law and ethics. It is indeed sad that the people of Pakistan were, for a number of days, held hostage to a fear about the independence and integrity of their country's superior judiciary, on the basis of what has turned out be an utterly baseless allegation, withdrawn now by the same person who is alleged to have started it. The ethic and legal framework of the media requires fairness and objectivity; it requires that journalists conduct due diligence before reporting any news so that



rumours and insinuations are filtered out, particularly in matters of grave significance such as ones arising in this case. Even when they have come across a particular information, fair conduct requires it is checked and rechecked. From the statements filed by certain media persons in court the requisite due diligence *prima facie*, appears not to have been undertaken. Had this been done, the concerned media persons would have found out what has been ascertained by us with very little effort. Moreover, Dr. Arsalan and his conduct should have, from the very beginning, been kept separate and distinct from the integrity and independence of the judiciary. It should not have taken an in-court statement from Malik Riaz to settle the matter. Without proper care and professional excellence, even sincere and honest journalists risk being used as tools in the hands of those who may not be obedient to the laws and the constitution of Pakistan.

15. Among the documents filed in Court is a statement of Mir Ibrahim Rehman, Chief Executive, Geo Network. He has placed stress on the "good intention" of Geo anchor persons and has expressed his view that they had acted in a "responsible manner" to protect the respect of the Judiciary. Stress has also been placed on media ethics of the group. Mr. Shaheen Sehbai has also submitted an affidavit acknowledging that there was "*a plan which was aimed at maligning the top Judge of Pakistan and son of the Chief Justice of Pakistan*". Iftikhar Muhammad Chaudhry according to him, had been named under a plan as the beneficiary of business deals involving crores of rupees. It is quite clear from the affidavit of Mr. Sehbai that he was neither in possession of the evidence nor had he seen it. Likewise none of the persons mentioned in his affidavit was in possession of the evidence. This omission was not considered important enough. Mr. Sehbai goes on to state that his "*prime goal was to warn the Judges of a conspiracy*". We are left wondering if giving an Internet-based interview without seeing any of the documents and then uploading such interview on YouTube was indeed the best way to warn the Judges of a conspiracy.

16. The statement submitted by Mr. Kamran Khan also shows that even rudimentary checks would have made it clear that Malik Riaz had indeed had no direct contact or transaction or other dealing whatsoever with Dr. Arsalan. Furthermore, we have not found that any due diligence was undertaken to ascertain or verify the true facts of cases

pending in the Supreme Court for which Malik Riaz has stated he paid large sums of money for relief and favourable decisions. With the object of illustrating our comment through the documents filed by Malik Riaz with his Concise Statement, we can refer to the very first case i.e. HRC No. 10322-P/2009, mentioned at page 69 of the Concise Statement of Malik Riaz. In his own words action in the case was *“taken on press clipping in Daily Jang dated 12.10.2009 on appeal of Raja Riasat”*. The subject of the case according to Malik Riaz, is the murder of Raja Fiaz son of Raja Riasat over a land dispute in Mauza Sihala. The simplest inquiry into HRC No. 10322-P/2009 would have revealed that 9 Investigating Officers and 6 DSPs are facing criminal charges because they have committed the most serious illegalities in the conduct of the investigation and have thereby subverted the course of justice in a murder case. This is the situation even according to FIA. It is a matter of concern to the people of Pakistan that such inquiry was not undertaken before the airing of, perhaps the most damaging and tendentious media onslaught on the Judiciary in the recent past.

17. Because of the limited scope of these proceedings, it is not necessary for us to embark upon any inquiry as to the thoroughness of journalistic inquiry commensurate with the magnitude of the disclosures which all the three journalists appear to be fully aware of. It is, however, our considered opinion that appropriate levels of due diligence could have avoided the situation which the whole nation including this Court found itself in, on the morning of 6.6.2012.

18. Just to illustrate, *prima facie*, the absence of professional thoroughness and apparent lack of due diligence, let us briefly record here an interesting aspect of the documentary “evidence” filed by Malik Riaz with his Concise Statement which we have noticed through a cursory glance over these papers. The documents attached with the Concise Statement relate only to 4.5% of the total money allegedly spent on behalf of Malik Riaz. The rest remains unaccounted for. This is because the total alleged amount spent as illegal gratification is almost Rs. 342.5 million or around 34 crore Rupees. This spending is alleged to have been done by two distinct means: one, in the form of facilitation during the ‘foreign trips’, i.e. paying for tickets, accommodation, food and entertainment; second, by way of ‘cash transfers’. It is the second kind of spending i.e.

cash transfers which are alleged to comprise the largest chunk of the alleged bribes. So the three foreign trips in aggregate come to Rs. 15.5 million (8.9 + 0.7 + 5.9) or around 1.6 crore; the rest, a staggering sum of Rs. 327 million or 32.7 crore is supposed to have been transferred as cash, i.e. currency notes of unspecified denomination. The documents which have been attached to the Concise Statement only deal with the foreign trips component of the alleged bribes. For the alleged cash transfers, no evidence at all (not even a bare affidavit of Salman Ali Khan) has been provided. Even the dates of such cash transfers or their location have not been indicated. These transfers are alleged to have taken place in four installments. The largest such installment is said to have been Rs. 157 million, i.e. 15.7 crore. By any standards, that is a lot of money for anyone to be giving or receiving in the form of hard cash. It is not impossible. But it does raise some suspicion about the veracity of the narrative which any diligent or even rudimentary inquiry should have addressed. The fact of the matter is we have seen senior and intelligent persons buying into the claim, after seeing "evidence" which admittedly pertains to less than 5% of the alleged illegal transactions.

19. It is worth remembering that ultimately every person and every institution is the custodian of his/its own reputation and integrity. If we donot guard our reputation the honourable people of Pakistan will be justified in pointing fingers at us. The same applies to all other institutions, including the media.

20. Finally, let us add that this suo moto case has presented to us, like the proverbial dark cloud, its own silver lining. Openness and transparency in the full glare of an open Court hearing with equal opportunity to the two sides, is one of the defining features of our legal system. The people of Pakistan can rightfully demand such openness and transparency as their right. These hearings have given us an opportunity to demonstrate and make it absolutely clear, as we have done previously in a large number of high-profile cases, that in the Islamic Republic of Pakistan, no one is above the law. Even the highest constitutional functionaries, and their kith and kin, cannot but submit themselves and their affairs to the law. We must know that howsoever high and mighty a person may be, the law is higher and mightier. In a recent case, we have cited a *hadith* of the Holy Prophet (peace be upon him), which informs or should inform the actions of

the people of Pakistan. The Holy Prophet (peace be upon him) warned: *O people, those before you were ruined because when someone of high rank among them (sharif) committed theft, they would spare him, but when a weak person from amongst them (zaeef) committed theft, they would inflict the prescribed punishment upon him.*" (Sahih Bukhari)." Cited in the case of Syed Yousaf Raza Gillani versus Assistant Registrar, Supreme Court of Pakistan (2012 SCMR 424). The Holy Prophet (peace be upon him), in these words, warned us against the path of corruption, nepotism and favouritism, indicating that it is one which leads only to sure destruction. This insistence upon equality before law has found its way into our Constitution, and we have repeatedly emphasized it in a number of recent judgments just as we do in rendering this judgment. We are not in any doubt the Supreme Court will never shy away from discharging its constitutional duty to uphold the principle of the rule of law without fear or favor. Other creations of the Constitution and the law be they executive agencies or courts must also show equal diligence in giving effect to the rule of law in their respective spheres of authority. Investigative agencies and courts are reminded that they must proceed with no consideration before them, save the law and the Constitution.

21. Today, we, as a nation, stand at what is undeniably a fateful cross-roads in our history. But at least since 9<sup>th</sup> March, 2007 this Court has trod only one path ahead of it – the path of the law and the Constitution, which is our only hope of preserving the gains of the *"unremitting struggle of the people against oppression and tyranny."* This is the path that we, and indeed all organs of the state are commanded to follow, in the very preamble of the Constitution. If we fail in this duty, we risk returning, as we said in the beginning, to the period before March 9, 2007. The significance of that water-shed in our constitutional history may have been lost upon some, but certainly not upon this Court. But for that moment of truth, there would have been no deliverance – for anyone.

22. While this suo moto action has been brought to an end in view of the material considered above, the learned Attorney General who has assisted us in this case is fully abreast of all aspects of this case. It is our expectation that he will set the machinery of the State in motion so that all those who may have committed any illegal acts, including

Malik Riaz Hussain, Dr. Arsalan, Salman Ali Khan etc. are pursued and brought to book with the full force and rigour of the law.

23. The matters giving rise to this Suo Moto case may have been seen by some as a dark and sordid affair. We have, however, been confident from the very beginning that only *khair* and the clearest dawn will emerge from this case. We can conclude by quoting once again from the sage of Shiraz as the bearer of hope and good tidings, reflected in the following couplets:-

رسید مُودہ کہ ایامِ غم نخواہد ماند  
چنان نماند و چنین نیز ہم نخواہد ماند  
(خوش خبری پہنچی ہے کہ غم کے دن نہیں رہیں گے۔ وہ دن بھی نہیں رہے اور یہ بھی نہیں رہیں گے)  
توانگر! دل درویش خود بہ دست آور  
کہ مخزنِ زر و گنج و درم نخواہد ماند  
(اے دولت مند! اپنے درویش کا دل جیت لے۔ کہ سونے اور درہم و دینار کے خزانے نہیں رہیں گے)  
سحر، کرشمہ، صُحُوم بشارتی خوش داد  
کہ کس ہمیشہ گرفتارِ غم نخواہد ماند  
(سحر کے وقت صبح کے کرشمے نے اچھی خوش خبری دی۔ کہ کوئی ہمیشہ غم میں گرفتار نہیں رہے گا)  
زِ مہربانی جانانِ طَمَعِ مُبرِ حافظ  
کہ نقشِ جور و نشانِ ستم نخواہد ماند  
(حافظ! محبوب کی مہربانی کی امید نہ چھوڑو۔ کیوں کہ ظلم و ستم کا نشان بھی باقی نہیں رہے گا)

Judge

Judge

ISLAMABAD

14.6.2012.

A.Rehman

APPROVED FOR REPORTING.

**NOTE BY KHILJI ARIF HUSSAIN, J.**

I have had the opportunity of going through the judgment authored by my learned brother Jawwad S. Khawaja, J. and am in complete agreement with the same. I only wish to add this brief note on an aspect of this case which has been highlighted by the facts.

While we as judges are particularly in the public domain, all persons exercising State functions are in the eyes of the people. Although family members of public functionaries are, properly speaking, not performing State functions, the alleged facts of this case highlight the necessity of extreme caution and discretion in their private and public dealings and conduct.

(Khilji Arif Hussain)  
Judge